

**SUTTONS BAY TOWNSHIP**  
**ZONING ORDINANCE**

**SUTTONS BAY TOWNSHIP**  
**LEELANAU COUNTY, MICHIGAN**

**EFFECTIVE SEPTEMBER 14, 1994**  
**AS AMENDED THROUGH OCTOBER 2017**

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# SUTTONS BAY TOWNSHIP ZONING ORDINANCE

The Township of Suttons Bay in Leelanau County, Michigan, ordains:

## ARTICLE 1 TITLE, PURPOSE, ENABLING AUTHORITY AND CONDITIONS OF ENACTMENT

(Annotation: Article amended in its entirety by Amendment 16-004, effective February 24, 2017)

### SECTION 1.1 TITLE

This Ordinance shall be known as the Suttons Bay Township Zoning Ordinance and will be referred to herein as the Ordinance.

### SECTION 1.2 PURPOSE

The purpose of the Ordinance is to protect the public health, safety, and general welfare of the inhabitants of Suttons Bay Township, through the establishment of zoning districts within which the proper use of land and natural resources may be encouraged and regulated to achieve planned orderly growth and development for the Township, preventing overcrowding of lands, avoiding undue congestions of population, and facilitating transportation, public utilities, fire safety, and for other purposes of the Michigan Zoning Enabling Act.

### SECTION 1.3 ENABLING AUTHORITY

This Ordinance is enacted pursuant to P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.).

### SECTION 1.4 SCOPE

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

### SECTION 1.5 RELATIONSHIP TO LAND USE MASTER PLAN

The Zoning Ordinance and the Zoning Map are based upon the Suttons Bay Community Joint Master Plan of August 2011, and the supporting documents.

## **ARTICLE 2 DEFINITIONS**

(Amended through Amendment #110, 10/26/2007 as annotated)

### **SECTION 2.1      RULES APPLYING TO THE TEXT**

For the purposes 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 term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- D. The word "used" or "occupied" as applied to any land or structure shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- E. Any word or term not interpreted or defined by this Article shall be used with a meaning in common or standard usage. Any current standard collegiate dictionary is considered to be common or standard usage.

### **SECTION 2.2      DEFINITIONS**

For the purposes of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

ABATTOIR: A building where beasts are butchered for market.

ACCESSORY BUILDING: See BUILDING, ACCESSORY.

ACCESSORY STRUCTURE: See STRUCTURE, ACCESSORY.

ACCESSORY USE: See USE, ACCESSORY.

ADULT BOOKSTORE: See ADULT AND SEXUALLY ORIENTED BUSINESS.

ADULT CARARET: See ADULT AND SEXUALLY ORIENTED BUSINESS.

ADULT DRIVE-IN: See ADULT AND SEXUALLY ORIENTED BUSINESS.

ADULT FILM STORE: See ADULT AND SEXUALLY ORIENTED BUSINESS.

ADULT MOTION PICTURE THEATER: See ADULT AND SEXUALLY ORIENTED BUSINESS.

ADULT AND SEXUALLY ORIENTED BUSINESS: includes adult bookstore, adult cabaret, adult drive-in, adult film store, and adult motion picture theater as defined below:

ADULT BOOKSTORE: An establishment having as a substantial 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 defined by this ordinance.

ADULT CABARET: A bar, lounge, club or other establishment which, whether or not it sells alcoholic or non-alcoholic beverages, and/or food, 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 defined by this ordinance.

ADULT DRIVE-IN: An open-air establishment in which a substantial 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 defined by this ordinance.

ADULT FILM STORE: An establishment in which a substantial portion of its stock in films, video tapes, video disks, or similar items are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined by this ordinance.

ADULT MOTION PICTURE THEATER: An enclosed building in which a substantial 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 defined by this ordinance.

SPECIFIED ANATOMICAL AREAS: Includes any of the following:

- a. Less than completely and opaquely covered human genitals, public region, buttocks, anus, or female breasts below a point immediately above the top of the areola.
- b. Human male genitals in a discernable turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: Includes any of the following:

- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
- b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
- c. Masturbation, actual or simulated.

ADULT FOSTER CARE (AFC): The care of adults who do not require nursing care, but who are unable to live independently because they are developmentally disabled, emotionally impaired, physically handicapped, or elderly.

AFC FAMILY CARE HOME: A private home or facility licensed by the State Department of Social Services, where no more than six (6) adults are receiving foster care.

AFC SMALL GROUP HOME: A facility licensed by the State Department of Social Services, where from 7 to 12 adults are receiving foster care.

AGRICULTURAL SUPPORT INDUSTRY (A.S.I.): An A.S.I. is a manufacturing or service industry which serves the local farming community, not just the farm on which it operates.

AGRICULTURE: See FARM.

APARTMENT: See DWELLING UNIT.

BED AND BREAKFAST: A single family dwelling with no more than three bedrooms available for guest use for compensation and by prearrangement, having no external evidence that rooms are available. Compare TOURIST HOME.

BED AND BREAKFAST INN: An owner occupied private home with four or more bedrooms available for guest use for compensation and by prearrangement.

BERM: An earthen mound rising to an elevation above the ground designed to provide visual interest, screen undesirable views and/or decrease noise.

(Annotation: Definition added by Amendment 09-001, effective on 8-28-09)

BLUFF: A cliff or hill with a slope in excess of thirty (30) percent, which terminates in Lake Michigan waters and bays, or any inland lake, or their beaches.

BOAT HOUSE: Any permanent structure erected on the shore of a lake or watercourse, used for the noncommercial storage of boat(s) and related equipment and supplies.

**BUFFER**: A strip of land with plantings and/or structures which may be required to protect one type of land use from another, or to minimize or eliminate conflicts between them. Compare GREENBELT and SCREEN.

**BUILD**: See ERECT.

**BUILDING**: Any structure, whether temporary or permanent, having a roof, and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind. This shall include tents, awnings, mobile homes and vehicles whether or not mounted on wheels.

**BUILDING, ACCESSORY**: A subordinate building, which may or may not be attached to a principal building, occupied by or devoted exclusively to a use which is accessory and clearly incidental to the principal permitted use.

**BUILDING, DETACHED**: A building having no structural connection with another building.

**BUILDING, NONCONFORMING**: See NONCONFORMING BUILDING OR STRUCTURE.

**BUILDING HEIGHT**: The vertical distance measured from the finish grade at the building to the midpoint between the highest part of the roofline and the eave line. If the building is located on sloping terrain (i.e. walkout), the height shall be half the vertical distance measured from the finish grade at the wall furthest downhill to the midpoint between the highest part of the roofline and the eave line plus half of the vertical distance measured from the finish grade at the wall furthest uphill to the midpoint between the highest part of the roofline and the eave line. See FINISHED GRADE. (Annotation: Definition added by Amendment 04-003 effective on December 1, 2004)

**BUILDING, PRINCIPAL**: A building or group of buildings in which is conducted the main or principal use or activity permitted on the lot where the building is located.

**BUSINESS SERVICES**: Establishments that render services, rather than provide goods, primarily to other businesses. (Annotation: Definition added by Twp Board Ordinance. No. 4 of 2007, PC Ordinance Amendment 110 effective 10-26-2007)

**CAMP**: Grounds and buildings to accommodate an organized, supervised recreational program of outdoor activities, with housing often in tents or cabins, usually operated during the summer.

**CAMPGROUND**: A parcel of land upon which two or more campground sites are located, established, or maintained for occupancy by recreational vehicles, tents, or other individual camping unit by the general public as temporary living quarters for recreational purposes. (Annotation: Definition changed by Amendment 01-001 effective on March 1, 2001)

CAMPGROUND SITE: A plot of ground within a campground intended for the accommodation of either a recreational vehicle, tent, or other individual camping unit on a temporary basis. (Annotation: Definition added by Amendment 01-001 effective on March 1, 2001)

CHILD CARE:

FAMILY DAY CARE HOME: A private home registered with the State Department of Social Services, where one (1) to six (6) children are received for care and supervision, including those children less than seven (7) years old in the resident family.

GROUP DAY CARE HOME: A private home, licensed by the Department of Social Services, where from seven (7) to twelve (12) children are received for care and supervision.

DAY CARE CENTER: A facility other than a private home, licensed by the Department of Social Services, where one or more children are received for care and supervision. This includes PRESCHOOLS and DAY NURSERIES.

CHURCH: A building or site, wherein people regularly assemble for religious expression or which has been established by a religious body organized to sustain that public religious expression. Included are all accessory buildings and uses customarily associated with a church. "Church", although it customarily might be considered a Christian entity, for purposes of this ordinance should be considered to be synonymous with such words as "temple", "mosque" or "meeting" and the religious philosophies which they represent.

CIDERY: An establishment licensed by the State of Michigan as a cidery.  
(Annotation: Definition added by Amendment 13-001 effective April 26, 2013)

CLEAR SIGHT DISTANCE: An area found at an intersection or curve in a road system that allows for unobstructed vision for the operator of the vehicle.  
(Annotation: Definition added by Amendment 09-001, effective on 8-28-09)

CLINIC, HEALTH: A professional office where people are examined and treated by one or more physicians, dentists, psychologists, or other licensed health practitioners, but not lodged overnight.

CLUB, PRIVATE: An organization of persons for special purposes or for the encouragement of agriculture, sports, arts, science, literature, politics or the like, but not for profit, and open only to members and their guests and not to the general public.

CLUSTER HOUSING: See Article X.

CO-LOCATION: The use of a wireless telecommunications facility by more than one wireless telecommunications provider.



COMMERCIAL FARM: a farm which had produced agricultural or horticultural products worth \$2,500 or more annually for at least three of the past five years.

(Annotation: Definition added by Amendment 17-001, effective April 28, 2017)

COMMERCIAL STORAGE: A space, or a place, for the safekeeping of personal property for profit.

COMMISSION: A Planning Commission formed under the Township Planning Act or, if no Planning Commission has been appointed by the Suttons Bay Township Trustees, the Suttons Bay Township Zoning Board.

CONDITIONAL USE: See USE, CONDITIONAL.

CONDOMINIUM: A form of ownership where the "homeowner" shares ownership in property, whose maintenance is a group responsibility, and where the individual enjoys the use of the space within the dwelling, under the Condominium Act, Michigan Public Act 59 of 1978, as amended.

CONDOMINIUM, SITE: A site condominium is a condominium where there is shared responsibility for common areas, but where the individual not only enjoys the use of his dwelling, but is responsible for maintaining it and the yard assigned to him, under Michigan Public Act 59 of 1978 as amended. See LOT.

CONDOMINIUM LOT(S), SITE: In the case of a site condominium, the lot shall be the condominium unit, which consists of the building envelope plus the limited common area surrounding the unit. (Annotation: Definition added by Amendment 17-004, effective October 27, 2017)

CONDOMINIUM UNIT - That portion of the condominium project designed and intended for separate ownership interest and use, as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, or recreational use as a time-share unit, or any other type of use. (Annotation: Definition added by Amendment 17-004, effective October 27, 2017)

CONIFEROUS: Plants/trees which retain foliage throughout the year.

(Annotation: Definition added by Amendment 09-001, effective on 8-28-09)

CONSERVATORY: A glassed area, which is part of a dwelling, used to grow and display plants. Compare GREENHOUSE.

COTTAGE, RENTAL: A single family dwelling, with or without kitchen facilities, which is maintained, offered, or used as living quarters for temporary residents for compensation. (This does not include hotels, motels, rooming houses, tourist homes, or guest houses.)

DAY CARE: See CHILD CARE.

DECIDUOUS: Plants/trees which lose their leaves in the fall.

(Annotation: Definition added by Amendment 09-001, effective on 8-28-09)

DECK, AT GRADE: a deck that shall not exceed one foot above existing or proposed grade at any level. (Annotation: Definition added by Amendment 04-003 effective on December 1, 2004)

DENSITY: The number of dwelling units existing or to be developed per acre of land.

DIAMETER BREAST HEIGHT (d.b.h.): A tree's trunk or stem diameter in inches measured at a point four and one half (4 ½) feet above the ground. On multi-stem trees, the largest diameter stem shall be measured. (Annotation: Definition added by Amendment 09-001, effective on 8-28-09)

DISTRICT, ZONING: An area for which there are uniform zoning requirements governing the use of buildings and premises, the size and height of buildings, the size of yards, and the density of development.

DRAINAGE: The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development, and includes the means necessary to preserve the water supply or to prevent or alleviate flooding.

DRIP LINE: An imaginary vertical line extending downward from the outermost tips of the tree's branches to the ground. (Annotation: Definition added by Amendment 09-001, effective on 8-28-09)

DRIVEWAY: a vehicular access from a lot to a public or private road.

(Annotation: Definition amended by Amendment 16-003, effective February 24, 2017)

DUPLEX: A building or part thereof containing two dwelling units.

DWELLING: Any building serving people as a home, residence, or sleeping place and having kitchen and bath facilities.

DWELLING, MULTI-FAMILY: A building containing three or more dwelling units.

(Annotation: Definition amended by Amendment 16-002, effective February 24, 2017)

DWELLING, SINGLE FAMILY: A detached building containing one dwelling unit.

DWELLING, SINGLE FAMILY ATTACHED: A dwelling unit which is part of a building containing two or more dwelling units with common walls on property lines so that only one dwelling unit is located on each lot.

DWELLING UNIT: A dwelling unit for one family.

DWELLING UNIT, ACCESSORY: A separate dwelling unit, contained within the structure of a single family dwelling or added to it.

EMPHASIS: When used in reference to adult and sexually oriented businesses "emphasis" means; **special attention, importance or stress given to the matter** depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" **so as to make it predominant.**

ENCLOSED, LOCKED FACILITY: That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423. (Annotation: Definition added by Amendment 11-005 effective November 25, 2011)

EVERGREEN: see CONIFEROUS  
(Annotation: Definition added by Amendment 09-001, effective on 8-28-09)

EXTRACTION, SAND AND GRAVEL: Removal of sand and gravel as a commercial activity.

FAMILY: One or more persons occupying a dwelling unit as a single nonprofit housekeeping unit. A domestic employee residing in the dwelling unit shall be considered part of the family. This definition shall not include any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

FARM: Any parcel of land which is used for general agricultural purposes, such as the growing of forests, orchards and field crops, or the raising of animals. This includes the necessary farm structures, and the storage of equipment used in the operation of the farm.

FARM MARKET: A permanent, enclosed accessory farm building or portion thereof used for the purpose of selling seasonal farm products.

FARM RETAIL MARKET: A retail store specializing in, but not limited to the sale of farm produce.

FENCE: A structure or barrier enclosing a field, yard, or other space, or separating it from an adjoining area; especially a structure of rails, pickets, or wooden or metal openwork. Compare SCREEN.

FENCE, BOUNDARY: A fence which delineates a property.

FILLING STATION: See SERVICE STATION.

FINISH GRADE: The point of elevation at the finished surface of the ground or of paving. For purposes of establishing building height finish grade of a building is the lowest elevation between the building and the property line or when the property line is

more than five feet from the building, between the building and a line five feet from the building.

FLOOD PLAIN: Land adjoining or connected to a water body or watercourse which is subject to being inundated, as reported by the U.S. Army Corps of Engineers or other applicable Federal and State Agencies. Compare WETLANDS.

FLOOR AREA: The sum of the horizontal areas of the several floors of a building, measured from the interior face of the exterior walls.

FLOOR AREA, USABLE: Usable floor area shall be calculated by taking the floor area minus hallways and entrance halls which are not used for the display or storage of merchandise, and minus mechanical areas involved solely with building and grounds maintenance.

FLOOR DRAIN: Drain installed as part of the floor, designed to dispose of excess liquid on the floor by directing it into the ground.

FOOD PROCESSING: A procedure which processes, packages, grades, sorts, or changes the form of fruit or other farm products.

FOOD PROCESSING PLANT: An establishment which processes, packages, grades, sorts, or changes the form of fruit, vegetables, or other farm products.

FRONTAGE ROAD: A secondary road parallel and immediately adjacent to a primary road or other road for which the Leelanau County Road commission specifies a design speed of 55 or more miles per hour.

FRUIT RECEIVING STATION: A business which receives raw fruit from area farms, for shipment to market.

GARAGE, COMMERCIAL: Any garage serving the public, which is used for storage, major repair and maintenance, refinishing, rustproofing, washing, adjusting, or equipping of automobiles or other motor vehicles. Compare SERVICE STATION.

GARAGE, RESIDENTIAL: An accessory building, freestanding or attached to a dwelling, designed and used primarily for the parking and storage of motor vehicles, boats, and equipment belonging to those in residence.

GAS STATION: See SERVICE STATION.

GLARE: Light directly visible to a viewer's eye, either directly from a light source, reflected or refracted.

(Annotation: Definition added by Amendment 01-003 effective October 25, 2001)

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, and often one or more natural or artificial hazards, practice driving ranges, and a clubhouse. This definition does not include mini-golf or similar amusement park types of games.

GREENBELT: A landscaped area, using grasses, trees and/or shrubs, with or without berms, to achieve the goals of this Ordinance. It is not intended to screen, and there is no minimum height requirement. Compare BUFFER and SCREEN.

GREENHOUSE: A structure, all or some of whose roof and side walls are of glass or similar material, which is used for the cultivation of plants and flowers. Compare CONSERVATORY.

GROUND COVER: Low-growing, woody shrubs, deciduous or evergreen plants, perennial plants and/or vines, or turf.

(Annotation: Definition added by Amendment 09-001, effective on 8-28-09)

GROUP DAY CARE HOME: See CHILD CARE.

GUEST HOUSE: An accessory building located on the same lot as the principal dwelling, used for housing guests. A guest house may have sleeping and toilet accommodations.

HARDSHIP: Unnecessary and illogical deprivation of an individual's property rights which are enjoyed by others in the same zoning district.

HAZARDOUS SUBSTANCE: A hazardous substance is a chemical or other material which is or may become injurious to the public health, safety, or welfare, or to the environment.

HEIGHT: See BUILDING HEIGHT.

HOME BUSINESS: An occupation carried on within a dwelling unit, which is subordinate and incidental to the residential use, but which is more intense than a home occupation as defined in this Ordinance, and which has the potential of having an adverse impact on the residential character of the neighborhood.

HOME OCCUPATION: An accessory use of a dwelling unit involving the manufacture, provision, or sale of goods and/or services, which is clearly subordinate and incidental to its use as a residence.

HOTEL: A building in which lodging is offered to the public for compensation, and in which access to the rooms is arranged in an inside lobby or office, with someone usually on duty at all times. Compare MOTEL.

**IMPERVIOUS SURFACE:** For purposes of this Ordinance this definition includes surfaces which prevent or impede normal water infiltration and/or cause runoff to other areas but is not limited to: (1) all buildings, and structures (area measured at roof gable end and eave lines), (2) stairs, walkways, driveways and parking or other areas comprised of cementitious substances, or any bituminous substance, including asphalt, and (3) any subbase of plastic or any shield which prevents or impedes water penetration.

Not considered an impervious surface are brick pavers, paver stone, graveled surfaces, decks, stairways and walkways with gaps in their surface structure (e.g., wooden decks with open cracks between the deck boards) that allow water to readily pass through the structure.

(Annotation: Definition added by Amendment 04-002 effective July 1, 2004)

**INDIGENOUS:** A species whose presence in a given region or ecosystem is the result only of natural phenomena, with no human intervention.

(Annotation: Definition added by Amendment 09-001, effective on 8-28-09)

**INSTITUTION:** A building occupied by a municipal or nonprofit corporation or establishment.

**INVASIVE:** A non-indigenous (e.g. plants or animals) that adversely affect the habitats they invade economically, environmentally or ecologically.

(Annotation: Definition added by Amendment 09-001, effective on 8-28-09)

**JUNK:** Any type of waste material, refuse, or equipment no longer useful to the degree to which it was originally intended, which may or may not have some salvage value. This includes vehicles, boats, trailers, and other transportation equipment stored outdoors, which are not licensed and in the opinion of the Zoning Administrator are not capable of being driven in their present condition.

**LANDSCAPE SCREEN:** The use of landscaping to create an opaque visual barrier between two parcels and/or uses of land.

(Annotation: Definition added by Amendment 09-001, effective on 8-28-09)

**LANDSCAPING:** The planting and continuous maintenance of some combination of trees, shrubs, grass, flowers, ground cover, and other decorative features to land, and may include natural features such as rock, stone, brick, earthen berms, and structural features such as benches, fountains, pools, and art work.

(Annotation: Definition added by Amendment 09-001, effective on 8-28-09)

**LAW ENFORCEMENT FACILITY:** A facility operated by a local unit of government for the physical detention and correction of persons charged with or convicted of criminal offenses, that can include a sheriff's office with road patrol, dispatch, and arraignment facilities. (Annotation: Definition added by Amendment 01-003 effective October 25, 2001)

**LODGE:** See CLUB.

LOT: A parcel of land unbroken by a street or road, on which a principal building or structure and/or use, and/or accessory structures or uses may be located. In the case of a site condominium, the lot shall be the condominium unit, which consists of the building envelope plus the limited common area surrounding the unit.

LOT AREA: The total horizontal area within the lot lines of a lot, excluding any easement for a street or right-of-way.

LOT, CORNER: A lot abutting on two streets or roads at their juncture, when the interior angle is less than one hundred and thirty-five (135) degrees.

LOT COVERAGE: That percentage of the lot covered by all buildings and structures located on the lot.

LOT DEPTH: The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

LOT LINES: The perimeter boundary lines of a lot.

LOT LINE, FRONT: That line separating said lot from any public or private street or road right-of-way/easement.

(Annotation: Definition amended by Township Ordinance No. 3 of 2011, effective June 24, 2011)

LOT LINE, REAR: That lot line or shoreline opposite and most distant from the front lot line.

LOT LINE, SIDE: Any lot line other than the front lot line or the rear lot line.

LOT LINE, ZERO: See ZERO LOT LINE.

LOT OF RECORD: A lot which is part of a subdivision or preliminary plat approved by the Township Board prior to the date of this Ordinance. Also a lot described by metes and bounds, the deed or other conveyance to which has been recorded with the Register of Deeds in Leelanau County prior to the effective date of this Ordinance.

LOT, WIDTH: The straight line horizontal distance between the side lot lines, measured at the two points where the front setback line intersects the side lot lines.

MANUFACTURED OR MOBILE HOME: A moveable dwelling which is constructed to be towed on its own chassis, is capable of being connected to public utilities, and is designed for year-round living as a single family dwelling unit without the necessity of a permanent foundation. The term "mobile home" shall not include pick-up campers, travel trailers, motor homes, converted buses, tent trailers, or other transportable structures designed for temporary use.

**MARIJUANA OR MARIHUANA:** That term as defined in Section 7106 of Act No. 368 of the Public Acts of 1978, as amended (Michigan Public Health Code), being MCL 333.7106. (Annotation: Definition added by Amendment 11-005 effective November 25, 2011)

**MEDICAL USE:** That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423. (Annotation: Definition added by Amendment 11-005 effective November 25, 2011)

**MICROBREWERY:** An establishment licensed by the State of Michigan as a microbrewery. (Annotation: Definition added by Amendment 13-001 effective April 26, 2013)

**MODERN CAMPGROUND:** A campground where water flush toilets and water under pressure is available at a service building or where a water outlet and a sewer connection are available at each site. (Annotation: Definition added by Amendment 01-001 effective on March 1, 2001)

**MOBILE HOME PARK:** A lot, parcel or tract of land used as the site for occupied mobile homes, including any buildings, structures, enclosures or facilities used by park residents, and licensed under Michigan Public Act 243 of 1959, as amended.

**MOTEL:** A building or group of buildings with sleeping accommodations available for temporary occupancy for compensation, primarily by automobile transients. Compare HOTEL.

**MOTORBOAT:** Watercraft with motors 5 horsepower and over or the equivalent; other boats or personal watercraft capable of being propelled at speeds greater than 35 miles per hour.

**MULTI-FAMILY or MULTI-FAMILY DWELLING:** A building containing three or more dwelling units. (Annotation: Definition added by Amendment 16-002, effective February 24, 2017)

**NONCONFORMING BUILDING or STRUCTURE:** A building or structure or portion thereof lawfully existing at the time of adoption of this Ordinance or of any amendments, that does not conform to the dimensional requirements of the Ordinance in the zoning district in which it is located.

**NONCONFORMING USE:** A use of a building or structure or of land, lawfully existing at the time of adoption of this Ordinance or of any amendments, that does not conform to the regulations of the Ordinance in the zoning district in which it is located.

**NURSERY:** An area where trees, shrubs, flowering plants etc. are raised for sale or transplanting.



NURSING HOME: A building other than a hospital, where the primary function is to provide nursing care for extended periods of time to persons afflicted with illness, injury, or an infirmity.

OPEN SPACE: Land that is permanently preserved from development through legal conveyance. (Annotation: Definition amended by Amendment 03-001 effective on February 28, 2003)

OVERLAY ZONE: An Overlay Zone is a separate zone placed over all or part of existing zoning districts that adds new regulations to those of the underlying districts.

PARCEL: An area of land.

PARK: Properties and facilities, particularly related to open space, owned or operated by any government agency for public recreation: similar privately owned or operated properties and facilities except not including golf courses or amusement parks.

PARKING LOT: A lot whose principal use is the parking of motor vehicles, where parking space is rented to the general public or reserved for individuals by the hour, or for some more extended period of time.

PARKING SPACE: A surfaced area of not less than nine (9) by twenty (20) feet, exclusive of drives or aisles, for the parking of motor vehicles, and so located as to be readily accessible to a public road, street or alley.

PASSIVE RECREATION: Non-motorized recreation.  
(Annotation: Definition added by Amendment 03-001 effective on February 28, 2003)

PERSONAL SERVICES: Establishments that render services, rather than provide goods, primarily to other individuals. (Annotation: Definition added by Twp Board Ordinance. No. 4 of 2007, PC Ordinance Amendment 110 effective 10-26-2007)

PLAYGROUND: Properties and facilities, particularly related to open space, with equipment and facilities designed for children's play, owned or operated by any government agency for children's recreation: similar privately owned or operated properties and facilities.

POINT OF LIGHT SOURCE: A lighting source, direct, reflected or refracted, which produces glare. (Annotation: Definition added by Amendment 01-003 effective October 25, 2001)

PRIMARY CAREGIVER: That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423 who has registered with the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the Michigan Medical Marijuana Act. (Annotation: Definition added by Amendment 11-005 effective November 25, 2011)

**PRIMARY CAREGIVER FACILITY:** The principal dwelling in which the activities of a primary caregiver are conducted.

(Annotation: Definition added by Amendment 11-005 effective November 25, 2011)

**PRIMARY ROAD:** US numbered highways, Michigan State highways and numbered "Primary County routes" delineated on the "Leelanau County Transportation Map and Address Guide", as amended from time to time, are primary roads.

**PRIMARY STRUCTURE:** The following shall be considered primary structures: the residential dwelling, garage, and attached decks. Storage buildings, boat houses, gazebos, stairways, and unattached decks shall not be considered primary structures.

(Annotation: Definition added by Amendment 04-002 effective July 1, 2004)

**PROFESSIONAL SERVICES:** Establishments that render professional services rather than provide goods. A provider of professional services must be licensed to practice their profession. (Annotation: Definition added by Twp Board Ordinance. No. 4 of 2007, PC Ordinance Amendment 110 effective 10-26-2007)

**PUBLIC RECREATIONAL TRAILS:** Non-motorized transportation and recreation corridors for such uses as walking, jogging, bicycling, cross-country skiing, or snowshoeing, intended for use by the public.

(Annotation: Definition added by Amendment 04-003 effective on December 1, 2004)

**PUBLIC UTILITY:** Any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing to the public, under federal, state, or municipal regulations: gas, steam, electricity, sewage disposal, water, communication, telephone, telegraph, or transportation.

**QUALIFYING PATIENT:** That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423 who has registered with the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the Michigan Medical Marijuana Act.

(Annotation: Definition added by Amendment 11-005 effective November 25, 2011)

**RECREATION VEHICLE:** A motorized vehicle, or a vehicle mounted on or drawn by another motorized vehicle, primarily designed and used as temporary living quarters for recreational camping or travel.

**RECREATIONAL AREAS:** Specific areas designated for recreational use that include playgrounds, baseball fields, tennis courts, volleyball courts, badminton courts, shuffleboard games, basketball courts, swimming areas and pools, horseshoe games, archery range, and nature trails.

(Annotation: Definition added by Amendment 01-001 effective on March 1, 2001)

**RENTAL COTTAGE:** A single family dwelling, with or without kitchen facilities, which is maintained, offered, or used as living quarters for temporary residents for

compensation. (This does not include hotels, motels, rooming houses, tourist homes, or guest houses.)

RESIDENTIAL USE AREA: Any area along a public road, street or highway within the Township that has seven (7) or more residential homes or dwelling units fronting the public road, street, or highway within any quarter mile (1320 feet) section of the road.

(Annotation: Definition added by Amendment 01-001 effective on March 1, 2001)

RESTAURANT: A business located in a building where meals are prepared, sold and served for consumption on the premises. This excludes consumption in parked cars, and also "fast food restaurants."

RESTAURANT, FAST FOOD: A business located in a building where meals are prepared, sold and served primarily for consumption off the premises, although consumption on the premises is allowed.

RETAIL NURSERY: A retail store specializing in, but not limited to, the sale of ornamental trees, shrubs, and or herbaceous materials propagated and grown mostly at some other location.

RETAIL STORE: A store, market, or shop in which commodities are sold, or offered for sale, directly to the consuming public.

ROADSIDE STAND: A temporary structure used for selling seasonal farm products raised or produced in Leelanau County, where the customer shops and makes his or her purchases without entering the structure.

(Annotation: Definition changed by amendment 01-005 effective July 26, 2001)

ROOMING HOUSE: A single family dwelling where lodging with or without meals is furnished for compensation to three or more people, usually for an extended period, and usually with a sign indicating the use.

SAWMILL: A mill or machine for sawing logs into lumber, operated at one location for more than six months.

SCHOOL: A public or private educational institution offering a conventional academic, alternate or vocational curriculum from kindergarten through twelfth grade (K-12). For purposes of this ordinance "school" includes all adjacent properties owned or used by the institution for education, research and recreational purposes.

SCREEN: A high fence, or hedge of natural materials such as trees, shrubs and other plant materials, providing a visual and/or sound barrier between the area screened and adjacent property. Compare FENCE and BUFFER and GREENBELT.

SEASONAL WORKER HOUSING: Housing for seasonal workers.

**SECONDARY COUNTY ROAD:** Any paved (bituminous, concrete, or seal coat) road within the township under the jurisdiction of the Leelanau County Road Commission, which is not a primary county road, not constructed within a residential development, and not specifically intended to serve residential development.

(Annotation: Definition amended by Amendment 01-001 effective on March 1, 2001)

**SERVICE ESTABLISHMENT:** A store, market, or shop where personal services are performed for patrons from the immediate vicinity or neighboring community. Typical uses include barber shops, beauty parlors, coin operated laundries, photographic studios, copy shops.

**SERVICE STATION:** A building or premises together with the necessary equipment used for direct retail sale of gasoline or other motor fuels, oils, or minor accessories. Where such sales are incidental to the operation of a public garage, the use shall be classified as a commercial garage. Compare GARAGE, COMMERCIAL.

**SETBACK:** The required minimum unoccupied distance between the lot line or the shoreline, and the principal or accessory buildings or structures.

**SETBACK, FRONT:** The required minimum unoccupied distance, extending the full lot width, between the principal or accessory buildings or structures and the front lot line.

**SETBACK, REAR:** The required minimum unoccupied distance, extending the full lot width, between the principal or accessory buildings or structures and the lot line or shoreline opposite the front lot line

**SETBACK, SIDE:** The required minimum unoccupied distance, extending from the front setback to the rear setback, between the principal or accessory buildings or structures and the side lot line.

**SETBACK AREA OR YARD:** The area between the lot lines and the lines representing required minimum setbacks from those lot lines.

**SETBACK AREA OR YARD, FRONT:** An area extending the full width of the lot between the front lot line and a line representing the required minimum setback from the front lot line.

**SETBACK AREA OR YARD, REAR:** An area extending the full width of the lot between the rear lot line and a line representing the required minimum setback from the rear lot line.

**SETBACK AREA OR YARD, SIDE:** An area extending from the front setback area to the rear setback area, between the side lot line and a line representing the required minimum side setback.

SHORELINE: The property line along the shore of any part of Lake Michigan at the Ordinary High Water Mark as defined in the Great Lakes Submerged Lands Act, Act 247, P.A. 1955, as amended (579.8 feet International Great Lakes Datum) or the property line along the shore of Lake Leelanau at the water level established by the Inlands Lakes and Streams Act, Act 346, of the Michigan Public Acts of 1972 as amended, by court order or the actual water's edge, whichever is furthest landward.

SHORELINE PROPERTY: All parcels located in the Residential Zoning District that are located between a water body and a public road, with a water body as one lot line. Parcels located on the upland side of a road running along a water body shall not be considered Shoreline Property.

(Annotation: Definition amended by Amendment 04-002 effective on July 1, 2004)

SHRUB: A woody, deciduous or coniferous plant that is smaller than a tree, consisting of several small stems from the ground or small branches near the ground.

(Annotation: Definition added by Amendment 09-001, effective on 8-28-09)

SITE CONDOMINIUM: See CONDOMINIUM, SITE.

SITE CONDOMINIUM LOT(S): See CONDOMINIUM LOT(S), SITE

SITE PLAN: A drawing showing all the salient features of a proposed project or development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance.

SITE PLAN APPLICATION: The documents and detailed drawings required for site plan review under Article III, Section 3.11, Site Plan Review. Compare PLOT PLAN.

SMALL WIND ENERGY SYSTEM TOWER HEIGHT: The height above grade measured to the top including the tower and blades when fully extended.

(Annotation: Definition added by Amendment 09-003, effective on 11-30-09)

SOLID WASTE TRANSFER STATION: A solid waste transfer facility licensed by the State and/or the Solid Waste Management Act, P.A 641 of 1978.

SPECIAL EVENT: An event such as, but not necessarily limited to, an exhibition, banquet, reunion, benefit, ceremony or service, typically occurring in a building, structure, or outdoor area for which admission/registration may be required, or may be rented, leased, or donated to private parties on a limited basis. The term "special event" does not include events for the personal use by the property owner or lessee.

(Annotation: Definition added by Amendment 16-001 effective May 27, 2016)

SPECIAL LAND USE: See USE, SPECIAL.

SPECIFIED ANATOMICAL AREAS: See "ADULT AND SEXUALLY ORIENTED BUSINESS".

SPECIFIED SEXUAL ACTIVITIES: See "ADULT AND SEXUALLY ORIENTED BUSINESS".

STORAGE: See COMMERCIAL STORAGE.

STREETS: Secondary roads which function as internal circulation for residential, industrial, commercial areas, or general local access routes.

STRUCTURE: Any construction or pieces of material artificially built up or composed of parts joined together in some definite manner. These include, but are not limited to, dwellings, garages, attached garages, sheds, accessory buildings (barns, out buildings, pole barns, gazebo's) decks that are not at grade, antennae, satellite dishes, stairways, carports, and communication towers. Structures do not include: At grade decks, sidewalks, driveways, parking lots, drain fields, flagpoles, mailboxes, underground tanks, fences, retaining walls, landscaping, at grade patios, shoreline stairways, tents or canopies. (Annotation: Definition added by Amendment 04-003 effective on December 1, 2004)

STRUCTURE, ACCESSORY: A subordinate structure, which may or may not be attached to a principal building or structure, occupied by or devoted exclusively to a use which is accessory and clearly incidental to the principal permitted use.

STRUCTURE, NONCONFORMING: See NONCONFORMING BUILDING OR STRUCTURE.

TELECOMMUNICATION: The technology which enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.

TOPOGRAPHIC MAP: A map showing the physical configuration and features of a tract of land, with contour lines at sufficient intervals to permit determination of grades and drainage patterns.

TOTAL GROSS ACREAGE: The total acreage of the parcel, including any public roads contained therein.

(Annotation: Definition amended by Amendment 03-001 effective on February 28, 2003)

TOURIST HOME: A single family dwelling offering lodging for compensation, chiefly on an overnight basis to transients. Compare BED AND BREAKFAST, and ROOMING HOUSE.

TRACT: See PARCEL.

TRAILER HOME: See RECREATION VEHICLE.

TRAILER PARK: See MOBILE HOME PARK.

TREE, CANOPY: Any deciduous tree the height of which exceeds 35' at maturity.

(Annotation: Definition added by Amendment 09-001, effective on 8-28-09)

TREE, UNDERSTORY: Any deciduous tree the height of which is less than 35' at maturity. (Annotation: Definition added by Amendment 09-001, effective on 8-28-09)

USABLE FLOOR AREA: See FLOOR AREA, USABLE.

USE: The purpose for which land or a structure is designed, arranged, or intended, or for which it is or may be occupied or maintained.

USE, ACCESSORY: A use incidental and subordinate to the principal use of the land or structure.

USE, CONDITIONAL: A use which is permitted after review by the Zoning Administrator to determine that all nondiscretionary requirements have been or will be complied with; or where compatibility with the neighborhood may be an issue, after review by the Commission following a public hearing.

USE, NONCONFORMING: See NONCONFORMING USE.

USE, PRINCIPAL: The principal or dominant use of the land or structure.

USE, SPECIAL: A use having greater than usual impact on the environment, the community and/or the neighboring property holders, which must be reviewed and approved by the Commission, after the plans for development have been presented at a public hearing/hearings and reviewed by all affected government agencies.

VARIANCE: A modification of the dimensional provisions of this Ordinance granted by the Zoning Board of Appeals when strict enforcement would cause undue hardship or practical difficulties owing to circumstances unique to the specific property.

WATERCRAFT: Canoes, jet skis, boats, sailboards, rafts, seaplanes, and all other waterborne vessels.

WATER'S EDGE: See SHORELINE.

WETLANDS: Land where water is found, either on the surface or underground near the surface, all year or for only a limited period of time. Poorly drained soils and water-loving vegetation help to identify wetlands. Final determination of wetlands is made by the DNR, which administers the Gormaere-Anderson Wetland Protection Act, Act 203 of 1979. Compare FLOOD PLAIN.

WIND ENERGY CONVERSION SYSTEM (WECS): A tower, pylon, or other structure, including all accessory facilities, upon which is mounted a wind vane, blade, or series of wind vanes or blades, or other devices connected to a rotor for the purpose of converting wind into mechanical or electrical energy.

(Annotation: Definition added by Amendment 09-003, effective on 11-30-09)

WIND ENERGY SYSTEM, COMMERCIAL: Wind turbine generators whose energy generation is not intended for primary consumption within the property on which the generator is located. (Annotation: Definition added by Amendment 09-003, effective on 11-30-09)

WIND ENERGY SYSTEM, SMALL: A WECS designed and used to generate electricity or produce mechanical energy for use on the property where located to primarily reduce on-site consumption of utility power.

(Annotation: Definition added by Amendment 09-003, effective on 11-30-09)

WINERY: An establishment licensed by the State of Michigan as a winery.

(Annotation: Definition amended by Amendment 13-001 effective April 26, 2013)

WIRELESS TELECOMMUNICATIONS ANTENNA: The physical device through which electromagnetic wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

WIRELESS TELECOMMUNICATIONS FACILITY: A facility consisting of the equipment and structures involved in transmitting or receiving telecommunications or radio signals.

WIRELESS TELECOMMUNICATIONS TOWER: A structure, intending to support equipment used to transmit and/or receive telecommunications signals, which includes monopoles, guyed, and lattice construction metal structures.

LATTICE TOWER: A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure often tapering from the foundation to the top.

MONOPOLE: A support structure constructed of a single wooden pole or a self-supporting hollow metal or composite tube securely anchored to a foundation.

YARD: See SETBACK AREA.

ZERO LOT LINE: The lot line specified in a zero lot line development, with which the building is contiguous. The building has no setback from the lot line, and a maintenance easement is granted by the adjacent lot owner for access to the wall on the lot line.

ZERO LOT LINE DEVELOPMENT: A development where dwelling units are placed with one (1) or two (2) walls on the lot line.





## ARTICLE 3

### GENERAL PROVISIONS

#### SECTION 3.1 DISTRICTS

For the purposes of this Ordinance, the Township of Suttons Bay is divided into land use districts, as follows:

- A. Agricultural
- B. Residential
- C. Commercial
- D. Industrial
- E. Waste Management

#### SECTION 3.2 MAP

The land use district into which each parcel of land in the Township is placed is shown on the map entitled "Suttons Bay Township Zoning Map," which accompanies and is hereby made a part of this Ordinance. Said Map, with all supplementary maps of the more highly developed areas of the Township, together with all notations, references and other information shown thereon, is hereby made a part of this Ordinance. Said Map shall be kept with the records of the Township Clerk, and the Map or an exact copy thereof shall be available for examination at the office of the Township Clerk at all reasonable times. Additional copies shall be available, one at the office of the Zoning Administrator, and one at the Suttons Bay Area Public Library. If, in accordance with the provisions of this Ordinance and of the applicable statute, amendments are made effecting changes in district boundaries or in other matters portrayed on the official Zoning Map, such changes shall be entered on the official Zoning Map, and on the copies referred to above.

#### SECTION 3.3 DISTRICT BOUNDARIES

Unless otherwise stated, all land use district boundaries shown on the Map are intended to follow lot lines, or the center lines of roads, streets or alleys, or section or sub-section lines as they existed on the date of enactment of this Ordinance; but where such district boundaries obviously are not intended to coincide with such lot lines, center lines, or section or subsection lines, and are not designated by dimensions, such boundaries shall be deemed to be four hundred and fifty (450) feet away from the nearest road or street right-of-way parallel to which they are drawn.

#### SECTION 3.4 EXACT LOCATION

The Zoning Board of Appeals shall determine, when required, the exact location of land use boundaries that otherwise may be in question.

**SECTION 3.5 SCOPE**

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

**SECTION 3.6 SCHEDULE OF AREA, HEIGHT, AND PLACEMENT REGULATIONS**

ZONING DISTRICT-----	AGRICULTURE	RESIDENTIAL	COMMERCIAL	INDUSTRIAL
<b>Minimum Lot Area</b>	2 acres	1 acre	1 acre (c)	1 acre
<b>Minimum Lot Width</b>	200 feet	150 feet	150 feet	150 feet
<b>Maximum Height of Structure</b>	30 feet (d)	30 feet	30 feet	30 feet
<b>Minimum Area of Dwelling Structure</b>	700 sq. ft.	700 sq. ft.	700 sq. ft.	
<b>Minimum Setbacks</b>	<b>Front</b>	40 ft.	40 feet (k)	(g) (b)
	<b>Side</b>	35 feet (f)	10 feet	(a)
	<b>Rear</b>	35 feet (f)	30 feet	<b>(a)</b>
	<b>Shoreline</b>	50 feet	50 feet (j)	50 feet
<b>Maximum Lot Area covered by structures.</b>	25 percent	25 percent (h)	25 percent	80 percent

(Annotation: Subsection changed by Amendment 02-002 effective July 4, 2002; k and j added and h amended by Amendment 04-002 effective July 1, 2004)

For Waste Management District see Article 11.

(a) Side yard and rear yard setbacks shall be fifteen (15) feet when adjoining other Industrial zoned property; thirty (30) feet when adjoining property that is not zoned Industrial.

(Annotation: Subsection changed by Amendment 02-002 effective July 4, 2002)

(b) Front setback areas in the Commercial and Industrial District shall be appropriately landscaped and maintained in accordance with Section 3.12 Landscaping, Screening, Buffers and Greenbelts.

(Annotation: Subsection changed by Amendment 02-002 effective July 4, 2002)

(c) Motels, hotels, inns, and rooming houses shall have a lot area of one acre (43,560 square feet) for the first unit and two thousand five hundred (2,500) square feet for each additional one-bedroom or efficiency unit.

(d) Farm buildings other than dwellings or structures may be allowed by the Zoning Administrator to exceed the height limitation if he determines that the height is usual for that type of building, and the building is to be used for farm purposes only.

- (e) In duplexes and multi-family dwellings, the average floor area per dwelling in each structure shall be a minimum of seven hundred (700) square feet.
- (f) See Article 4 Agricultural District, Section 4.6 Setbacks and Setback Areas.  
(Annotation: Subsection changed by Amendment 02-002 effective July 4, 2002)
- (g) 40 foot front yard setback, subject to Section 3.12 Landscaping, Screening, Buffers and Greenbelts.  
(Annotation: Subsection changed by Amendment 02-002 effective July 4, 2002)
- (h) All residential lots may have a coverage of either twenty-five (25) percent or six thousand (6,000) square feet whichever is larger. All shoreline property shall have an impervious surface coverage no greater than twenty-five (25) percent. Any portion of a public road traversing a lot will not be included as part of the impervious surface for calculation purposes.  
(Annotation: Subsection changed by Amendment 04-002 effective July 1, 2004)
- (i) A reduced front or rear setback shall be allowed for septic systems and wells in instances where appropriate health department authorities certify that no other reasonable alternatives are available and that the encroachment on setback yards is held to a minimum.
- (j) Shoreline Setbacks:
1. Setbacks for structures on lots of record on or before September 14, 1994 may be reduced to the average setback from the shoreline of primary structures on the two (2) closest developed lots on both sides of the subject parcel property lines. The applicant shall be required to provide an accurate measured drawing of these lots to determine the required setbacks. The minimum shoreline setback shall be no less than thirty (30) feet. If the average shoreline setback option is used, then the minimum side yard setback requirement shall be increased to an average of fifteen (15) feet. For example, if one side yard setback is ten (10) feet, the other side must be twenty (20) feet. No side yard setback shall be less than ten (10) feet.
  2. Lots of record created after September 14, 1994 shall conform to the fifty (50) foot shoreline setback.
  3. A survey of adjoining properties will not be required for any parcel or lot of record that meets the fifty (50) foot shoreline setback.  
(Annotation: Subsection changed by Amendment 04-002 effective July 1, 2004)
- (k) Front Yard Setbacks for Shoreline Property:
1. Front setbacks for structures on lots of record on or before September 14, 1994 may be reduced to the average setback from the property line adjacent to the right-of-way and the primary structures on the two (2)

closest developed lots on both sides of the subject parcel property lines. The applicant shall be required to provide an accurate measured drawing of these lots to determine the required setbacks. The minimum front yard setback shall be no less than twenty (20) feet. If the average front yard setback option is used, then the minimum side yard setback requirement shall be increased to an average of fifteen (15) feet. For example, if one side yard setback is ten (10) feet, the other side must be twenty (20) feet. No side yard setback shall be less than ten (10) feet.

2. Lots of record created after September 14, 1994 shall conform to the forty (40) foot front yard setback and the ten (10) foot side yard setback minimum.
3. A measured drawing of adjoining properties will not be required for any parcel or lot of record that meets the forty (40) foot front setback.  
(Annotation: Subsection changed by Amendment 04-002 effective July 1, 2004)

(l) Setbacks on Through Lots: Through Lots shall require Front Setbacks from both street or road right-of-ways / easements. Side Setbacks shall be required from the remaining lot lines.

(Annotation: Subsection added by Township Ordinance No. 3 of 2011, effective June 24, 2011)

(m) Setbacks on Corner Lots: Front Setbacks shall be required from the right-of-way or easement line of both streets or roads. Side Setbacks shall be required from the remaining lot lines.

(Annotation: Subsection added by Township Ordinance No. 3 of 2011, effective June 24, 2011)

### **SECTION 3.7 LOT ACCESSIBILITY**

No Dwelling Unit shall be built on a lot unless the lot abuts upon a public street or upon a permanent, unobstructed access easement-of-record to a public street. Such easement-of-record shall have a minimum width of thirty (30) feet, excepting where an access easement-of-record of less width existed prior to the adoption of this Ordinance. The regulations shall apply to such easements-of-record in the same manner as to streets.

### **SECTION 3.8 BUILDING LOT AREA**

This shall not prevent the use of a building lot or parcel of land of lesser size that was of legal record prior to the effective date of this Ordinance and that conformed to the zoning ordinance then in force. No portion of any parcel of land may be used in the calculation of required building lot area for more than one main building.

### **SECTION 3.9 DOCKS AND MOORINGS**

Unless otherwise specifically provided for in the ordinance the following shall apply:

- A. On inland lakes, docks shall not exceed one (1) per one hundred (100) feet of lot width, lot width to be measured parallel to the trend of the water's edge, and shall not extend beyond a water depth of five (5) feet. Notwithstanding the water depth a minimum of twenty-five (25) feet of length is allowed for any dock.

- B. On inland lakes: no more than two (2) motorboats and six (6) watercraft other than motorboats shall be allowed, per one hundred (100) feet of lot width, on hoists, beached, moored, docked, or anchored; no more than one (1) motorboat and one (1) watercraft other than a motorboat shall be allowed for each additional twenty-five (25) feet of lot width, on hoists, beached, moored, docked, or anchored.

(Annotation: Added by Amendment Number 5, effective December 13, 1995)

## **SECTION 3.10 MULTI-FAMILY LAKE AND SHORELINE ACCESS**

### **SECTION 3.10.1 INTENT**

To provide a mechanism for protecting the lakeshores and shorelines of the township from physical and visual degradation from overuse and inappropriate use.

To protect the rights of riparian owners, the Township, and non-riparian as a whole.

To prevent the development of nuisance conditions which threaten the land and water resources, which cause the diminution of property values, and which threaten the public health, safety, and welfare of all persons making use of lakes and lakeshores within the township.

### **SECTION 3.10.2 APPLICATION**

The provisions of this section shall apply when 2 or more families share frontage on navigable water without residing on that frontage. These provisions shall apply regardless of whether access to the waterfront is gained by easement, common or joint fee ownership, single fee ownership, lease, license, site condominium unit, stock, or membership in a corporation, or any other means. This section shall also apply to campgrounds with shared frontage on a lake. (Annotation: Subsection {last sentence} amended by Amendment 01-001 effective March 1, 2001)

### **SECTION 3.10.3 SITE PLAN REVIEW**

All developments described in this section shall be subject to the provisions of Article 19 Site Plan Review. Final review of Minor Projects under this section shall be a public hearing. The hearing shall be scheduled as an agenda item of a meeting of the Suttons Bay Township Planning Commission. Final approval shall be a majority of the members present. In addition to the requirements of Article 19 Site Plan Review, the following shall apply:

- A. The site plan shall consist of an accurate, reproducible drawing at a minimum scale of one inch equals forty feet (1"=40'). If needed for better understanding a greater scale may be required by the reviewers.
- B. The following additional information shall be depicted on the site plan or included in the Site Plan Review application:

1. The shoreline, as defined in the ordinance, drawn from a survey by a licensed surveyor.
2. Location of docks and other waterfront structures.
3. Graphic location of any playground equipment in place or to be installed on the site.
4. All bearings, distances and calculations showing compliance with the standards set forth in this ordinance.
5. All watercraft slips, moorings, boat hoists, or any other means of anchorage.
6. The rules of the association or organization governing the uses permitted on the common waterfront and specifying the conditions that must be met to entitle one to such use.
7. A statement that the site plan, including all submissions, cannot be modified without the approval of the Planning Commission.

#### **SECTION 3.10.4 CONDITIONS**

- A. The basic shared waterfront parcel shall meet the minimum requirements for a lot for the district within which it is located.
- B. A waterfront lot which includes a residence cannot be a basic shared waterfront lot for purposes of this ordinance.
- C. All parcels in the multi-family access association or organization shall meet the minimum requirements for a lot for the district within which it is located.
- D. All lots in the multi-family access "association" shall be contiguous. The aggregate of lots shall be contiguous to the basic shared waterfront lot.
- E. For each family unit beyond two an additional twenty-five (25) feet of lot width shall be required. Width is measured parallel to the trend of the water's edge.
- F. One off-street parking space is required for each sharing family residing outside a radius of five hundred (500) feet from the basic shared waterfront lot.
- G. On inland lakes, docks shall not exceed one (1) per one hundred (100) feet of lot width and shall not extend beyond a water depth of five (5) feet. Notwithstanding the water depth a minimum of twenty-five (25) feet of length is allowed for any dock.
- H. Boat launch facilities are not permitted.

- I. The basic shared waterfront lot shall not be used for the storage of boats or trailers.
- J. Sanitary facilities shall be provided if the site serves residents living beyond a radius of five hundred (500) feet. The number of fixtures shall be calculated at the rate of one fixture for each five (5) families with a minimum of one (1) fixture.
- K. Setbacks:
  - 1. Docks need not comply with the setback requirements from water's edge.
  - 2. The minimum side setback for the shared waterfront lot is fifty (50) feet except that the setback for parking shall be governed by the usual standards for the district within which it is located.

**SECTION 3.10.5 APPROVALS**

Final approval of the site plan shall be subject to the site plan being recorded with the Leelanau County Register of Deeds Office. The applicant shall submit evidence of registration to obtain final approval of the site plan.

**SECTION 3.11 BOAT HOUSES**

Unless otherwise specifically provided in this Ordinance, boat houses constructed on lakes or water courses in the Township do not have to comply with setback requirements from shoreline as would be applicable to other types of structures.

**SECTION 3.12 LANDSCAPING, SCREENING, BUFFERS AND GREENBELTS**

(Annotation: Replaced in its entirety by Amendment 09-001 effective August 28, 2009)

**SECTION 3.12.1 INTENT**

The intent of this section is to promote the public health, safety and general welfare by: protecting and preserving the character of the township; promoting preservation of existing vegetation, improving the appearance of property along waterways, roads, and public areas; visual and environmental buffers between incompatible land uses; reducing noise, air, and visual pollution; moderating daily temperature fluctuations; promoting water retention and preventing soil erosion and soil depletion; and protecting the banks of creeks, streams, lakes, and natural ponds.

Different subsections within this Section are applicable to different types of development and site plans. Please review through the entire Section and verify with the Administrator which sections apply to your plans.



**SECTION 3.12.2 APPLICABILITY AND GENERAL STANDARDS**

Certain land uses, because of their character and intensity, may create an adverse impact on less intensive and varied adjacent land uses. Accordingly, the following regulations are established to protect and preserve the appearance, character and value of the property throughout Suttons Bay Township.

- A. This Section shall apply to any site plan reviewed by the Planning Commission.
- B. The following chart explains when a project shall require a buffer between adjacent land uses:

Zoning District of Proposed Use	Adjacent Zoning District			
	Agricultural	Residential	Commercial	Industrial
<b>Agricultural</b>	Special Uses need review	Yes	Yes	Yes
<b>Residential</b>	Yes	No	Yes	Yes
<b>Commercial</b>	Yes	Yes	No	Yes
<b>Industrial</b>	Yes	Yes	Yes	No

- C. The applicant for the property applying for a site plan review or change in use is responsible to meet the requirements of this Section.
- D. At such times that Agricultural lands change to Residential use, a landscaped or non-landscaped greenbelt of a minimum of one hundred (100) feet in depth shall be required on the Residential property along any property line where the two uses meet. Landscaping may occur in the setback, although it is not required.
- E. A buffer is required between lands zoned Agricultural that are operating under a Special Use Permit and any other use.
- F. The width of the area in which the landscaping or screening is to occur is determined by the required setbacks of the zoning district.
- G. The area in which the landscaping or screening is to occur may include the required setbacks.
- H. A visual screen of natural plantings is preferred. The landscaping shall consist of massed evergreen and/or deciduous trees and shrubs so as to continuously restrict a clear view of the uses onto the property responsible for the landscaping.

- I. The landscaping may only be required along the portions of the property line that have immediate adjacent uses incompatible with the surrounding parcels.
- J. In required areas where natural landscaping is considered to be impractical or inappropriate, an opaque fence or wall of six (6) feet in height may be substituted in whole or in part provided it meets the approval of the Planning Commission. Where an opaque fence or wall is used it may not be closer than four (4) feet to the property line, and it must be maintained.

### **SECTION 3.12.3 PARKING LOT LANDSCAPING**

Except for parking areas for single-family or two-family dwellings, all parking areas that contain in excess of five (5) parking spaces shall comply with both of the following requirements:

- A. Perimeter landscaping. The parking area shall contain a greenbelt strip of no less than eight (8) feet. The greenbelt shall contain both trees and shrubs as required in the following subsections.
  1. One (1) canopy tree or understory tree shall be planted for every twenty-five (25) linear feet within the perimeter greenbelt area.
  2. Shrubs. One (1) shrub shall be planted for every ten (10) linear feet within the perimeter greenbelt area.
- B. Interior landscaping. Landscaping within the interior of parking areas is important for aesthetics and also functional in that landscaping moderates heat, glare, wind and other climate effects produced by paved areas. Accordingly, interior of a parking area shall be landscaped to meet the following requirements.
  1. Trees shall be planted throughout the interior of the parking area at a rate of one (1) tree for every sixteen (16) parking spaces. At least forty (40) percent of the trees shall be deciduous trees and at least twenty-five (25) percent of the trees shall be coniferous trees.
  2. Shrubs shall be planted throughout the interior of the parking area at a rate of three (3) shrubs for every sixteen (16) parking spaces.
  3. Trees and shrubs must be placed throughout the parking area to decrease the appearance of a single expanse of pavement and provide shade. In general, all trees and shrubs are to be placed in a visually pleasing fashion which may be created by grouping plantings. Additionally, it is also required that a variety of both trees and shrubs be used to preclude disease or blight from eliminating all of each. Alternatives include:
    - a. A continuous landscape strip between every four rows of parking.

A minimum of nine (9) feet in width shall be adequate to accommodate both shrubbery and trees, or,

- b. Large planting islands (over 600 square feet) located throughout the lot and planted with shade trees, low shrubs and/or ground cover. They shall preferably be located at the ends of parking rows, or,
- c. Planting islands between every ten (10) to sixteen (16) spaces to avoid long rows of parked cars. The size shall be a minimum of nine (9) feet wide to allow for an adequate planting area. Each planting island shall provide at least one large, maturing/canopy tree.

#### **SECTION 3.12.4 RIGHT-OF-WAY LANDSCAPING / GREENBELTS**

- A. Greenbelts parallel to road right of ways shall be the same depth as the required setback.
- B. The front setback shall be landscaped with a minimum overall number of one (1) tree for each thirty (30) lineal feet or major portion thereof, of frontage. Plantings may occur in groupings throughout the greenbelt, the number of plantings being equal to one (1) per thirty (30) linear feet. The remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs, and/or other natural, living plant material. The approval of the overall plan is subject to site plan review. The Planning Commission shall look for the plan to achieve at least the same degree of visual and/or sound barrier between the area being landscaped and the adjacent property as to meet the goals of this Section.
- C. Access ways from public rights-of-way through required greenbelts shall be permitted, but such access ways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required.
- D. Nothing in this Section shall be construed as permitting any obstruction to view which could constitute a traffic hazard and/or violate the clear sight distance.

#### **SECTION 3.12.5 HEIGHT AND TRAFFIC VISIBILITY**

- A. Structures (signs) at site entrances and exits may be up to twelve (12) feet in height, although it is not permitted to allow any obstruction to view which could constitute a traffic hazard.
- B. Fencing and structural screening materials of a height greater than three (3) feet shall not be located within a required front setback adjacent to a road or street.
- C. No fence, wall, sign, screen or planting shall be erected or maintained in such a way as to obstruct vision or interfere with traffic visibility on a curve.

- D. No fence, wall, sign, screen or planting shall be erected or maintained in such a way as to obstruct through vision between the height of three (3) and ten (10) feet at entrances and exits.

### **SECTION 3.12.6 PARTICULAR USES REQUIRING SCREENING**

Mechanical equipment, when located outside and at grade, including air conditioning and heating devices and water and gas meters, but not including plumbing and exhaust vents or chimneys, are to be screened to the height of the particular piece of equipment by landscaping, or by a solid wall or fence, from the view of the street or surrounding properties.

### **SECTION 3.12.7 LANDSCAPE PLAN REQUIRED**

Where a site plan is required to be submitted for approval, a landscape plan shall also be submitted. Landscape plans may be superimposed upon the site plan as space permits. Landscape plans are considered to be an integral part of any submitted site plan and will be subject to the same approval process. The landscaping plan shall include:

- A. Project information (minimum scale of one inch equals fifty feet (1"=50')) including the total square footage of the property, the square footage of building areas, parking and other vehicular use areas.
- B. Project's calculations, i.e., dimensional attributes and resulting amount of planted areas.
- C. Zoning of adjacent properties identified on the plan.
- D. Existing and proposed contours on-site and fifty (50) feet beyond the site at intervals not to exceed two (2) feet.
- E. Location, size and type of planting material, both existing and proposed. Identification that includes the botanical and/or common names of all trees and vegetative cover, both existing and proposed.
- F. Sizes and quantities of proposed landscape materials.
- G. Natural drainage patterns maintained to provide free flow without interruption. Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees, or culverts to maintain natural drainage patterns shall be shown on the plan.

### **SECTION 3.12.8 STANDARDS AND CRITERIA**

- A. All plant material shall comply with the most recent provisions set forth by the American Standard for Nursery Stock ANSI Z60.1
- B. Plant material shall be healthy, free of insects and diseases and physical damage.

- C. Plant material shall not be considered to be invasive species as cited on the Michigan Natural Features Inventory Invasive Species Field Guide or Fact Sheets. <http://web4.msue.msu.edu/mnfi/education/invasives.cfm>
- D. All trees and shrubs are to be planted in both a visually pleasing fashion and in such a way as to facilitate the creation of a visual screen which has, as much as possible, a natural appearance.
- E. Unless otherwise specified, the minimum size for plant materials when installed shall meet the following applicable requirements:
- |  |            |
|--|------------|
| 1. Canopy trees<br>(i.e. Oak, Maple, Ash)                | 3" d.b.h.  |
| 2. Evergreen trees<br>(i.e. Pine Spruce, Fir)            | 6' height  |
| 3. Ornamental trees:<br>Single trunk<br>(i.e. Crabapple) | 2" d.b.h.  |
| Multi-trunk<br>(i.e. Birch)                              | 7' height  |
| 4. Large shrubs<br>(i.e. Viburnum)                       | 30" height |
| 5. Small Shrubs<br>(i.e. Juniper)                        | 18" spread |
- F. Multiple species of trees and shrubs must be used to minimize the effects of disease and/or blight.
- G. All landscaping must be maintained in a healthy, growing condition at all times. The property owner is responsible for regular weeding, irrigating, removal of litter, mowing of grass, fertilizing, pruning, and other maintenance of all plantings as needed.
- H. All unhealthy and dead material shall be replaced during the next appropriate planting period. The property owner is responsible for the replacement of plants when necessary, and the regular watering of all plants. Failure to maintain the landscaped area in such a manner and to remove and replace dead and diseased plants shall constitute a violation of this Ordinance.
- I. All nonliving buffer materials, e.g., fencing, are to be kept maintained, cleaned and repaired by the property owner.
- J. Earth mounds and berms shall be constructed with slopes no greater than one (1) foot vertical for each three (3) feet horizontal with at least two foot flat on the top with adequate protection to prevent erosion.
- K. Unless otherwise specified or determined by the Planning Commission, screening

is to be six (6) feet in height, though shrubs and trees may grow much higher.

- L. All landscaping and landscape elements and earth moving and grading shall be done in a sound workmanlike manner and according to accepted good planting and grading procedures.
- M. In cases where occupancy is necessary prior to fulfillment of the landscaping requirements, a financial guarantee acceptable to the Suttons Bay Township Board may be required.

### **SECTION 3.12.9 MATERIALS FOR STRUCTURAL SCREENING**

- A. Wooden screens may be erected with wood posts not less than four inch by four inch nominal and solid board cover not less than one (1) inch thick. Masonry piers may be substituted for wood posts. Posts or piers shall be spaced not more than eight (8) feet apart on center. The finished side of the screen shall face abutting properties.
- B. Wrought iron, open mesh or slatted fencing may be used, provided that the ratio of one part open to six parts solid fencing (1:6) is not exceeded. The openings may be a maximum of one (1) inch.
- C. Masonry wall may be used if designed and constructed to facilitate maintenance and not to modify natural drainage in such a way as to endanger adjacent property. Masonry walls must be on cement footings, set a minimum of twenty-four (24) inches below grade.
- D. Other structural screening may be allowed if the Planning Commission finds that such other structural screening will achieve at least the same degree of visual and/or sound barrier effect between the area screened and adjacent property as the screening devices specified in this Section.

### **SECTION 3.12.10 EXCEPTIONS & ALTERNATIVE METHODS OF COMPLIANCE**

- A. Developments granted a land use permit prior to the effective date of the amendatory ordinance that amended this Section are exempt from the requirements of this Section.
- B. It is recognized that, on occasion, complete compliance with the terms of this Section may be impractical. Therefore, if an Applicant desires a modification of any of the requirements of this Section, the Applicant shall submit the following information to the Planning Commission:
  - 1. The Applicant shall identify the requirement(s) of this Section for which the modification is sought.
  - 2. The Applicant shall indicate whether the requested modification(s) is from the entire requirement(s) or whether the requested modification(s) only involves the degree or extent of compliance with the requirement(s).

3. The Applicant shall provide factual information to the Planning Commission demonstrating how the requested modification(s) will comply with the standards specified in subsection C below.
- C. The Planning Commission shall consider each requested modification individually and shall eliminate or modify any requirement of this Section as requested by the Applicant, if it finds that full compliance with the requirement of this Section is not necessary because the visual and/or sound impact of the development would be minimal on adjacent properties or abutting public or private roads or that full compliance with the requirement of this Section is impractical or unreasonably burdensome due to one or more of the following conditions on the site:
1. Space limitations on the site or an unusually shaped parcel.
  2. The topography, soil conditions, vegetation, or other site conditions.
  3. The natural vegetation on the site, if undisturbed during the development process, can meet or exceed the vegetation which is required, in total or in part.
  4. A building wall exists immediately abutting the lot line.
  5. Full compliance with the requirement of this Section will cause a hazardous condition on the site or on a public or private road abutting the site.
- D. In order to have landscape requirements modified due to one or a combination of the above, the applicant should submit a justification to the Planning Commission. Deviations from the requirements of this Section may be approved or disapproved by the Planning Commission. Within the justification, the applicant must describe:
1. Which of the conditions set forth above justify using alternatives;
  2. Which of the landscape requirements will be met with modifications; and
  3. How the proposed alternative meets or exceeds what is required.

### **SECTION 3.13 BOUNDARY FENCES**

Unless otherwise specifically provided for in this ordinance, boundary fences shall be limited to four (4) feet in height for all front setback areas and shoreline setback areas. Otherwise boundary fences shall be limited to six (6) feet in height. No boundary fence shall be erected in such a manner as to interfere with traffic visibility.

(Annotation: Section amended by Amendment 15-004 effective February 26, 2016)

## **SECTION 3.14 DRIVEWAYS**

For the safety, protection, and welfare of the residents of the Township of Suttons Bay, driveways shall be constructed so as to permit: free and easy access by fire-fighting apparatus and other equipment needed for emergency purposes; adequate parking for all vehicles so they will be off the road right-of-way.

- A. Driveways, being a requirement of the ordinance, are not subject to setback requirements. When connected to a public road, location must have Leelanau County Road Commission approval.

(Annotation: Subsection amended by Amendment 16-003, effective February 24, 2017)

- B. Shared driveways. Two abutting lots may share a driveway access subject to the following:

1. The lots must front on, and the driveways must access, a public street.
2. The agreement to share driveway access goes with the land, the parties agree to bind all future owners to this agreement. The agreement shall be recorded with the Register of Deeds.
3. Agreement to share a driveway access precludes the development of additional driveways within five hundred (500) feet of the shared driveway access for the lots sharing driveway access.

- C. Standards:

1. Driveways must have a minimum width of twelve (12) feet.
2. Shared driveways must have a minimum width of eighteen (18) feet.
3. Shared driveways shall not be used to meet parking requirements for any land use district.

## **SECTION 3.15 OFF STREET PARKING AND LOADING**

Replaced in its entirety by Amendment 09-002, effective 8-28-09

### **SECTION 3.15.1 INTENT**

The intent of this section is to provide adequate space for parking, standing, loading and unloading of motor vehicles on private property; to avoid undue interference with public use of roads or exits there from; and to lessen any conflict with neighboring uses of land.

### **SECTION 3.15.2 PARKING TO BE ON PROPERTY**

Required parking shall be provided off the public road right-of-way and on the lot to which it pertains, or on a contiguous lot unbroken by easement, right-of-way, or thoroughfare. The Suttons Bay Township Board, upon receiving evidence that parking is taking place on road shoulders because of a lack of adequate parking, may (upon



recommendation of the Planning Commission and following a public hearing) require additional parking as the Township Board determines appropriate.

### **SECTION 3.15.3 LANDSCAPING AND BUFFERING**

All parking and loading and unloading areas (except for single family residential units) shall be subject to the provisions of Section 3.12 Landscaping, Screening, Buffers and Greenbelts.

### **SECTION 3.15.4 NUMBER OF PARKING SPACES REQUIRED**

- A. Handicap parking required by Federal, State and Local standards must be met.
- B. Residential Use:  
Two (2) parking spaces per dwelling unit.
- C. Non-Residential Use:  
The following parking formulas listed below (C-R) are to be used as guidelines for non-residential Site Plans. The Planning Commission may, at their discretion, depart from these guidelines and allow fewer parking spaces if the following conditions are met:
  - 1. Applicant must present a parking analysis indicating that less parking is necessary for the proposed use(s). A parking study or data from recognized traffic engineering references may be required.
  - 2. A reserve parking area is provided on the Site Plan to be used if the initial parking area is not adequate or the use is such that a reserve area is needed. The Planning Commission has the discretion to determine that a reserve parking area is not necessary.
- D. Professional Office Buildings (non-medical): One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
- E. Retail Stores and Personal Service Shops: One (1) space for each two hundred fifty (250) square feet of gross floor area.
- F. Manufacturing and/or Processing: One (1) space per employee, plus additional spaces required for operating the business.
- G. Automobile Repair and Automobile Service Stations: Three (3) spaces per service bay, plus one (1) space per three hundred (300) square feet of gross floor area.
- H. Golf Courses: Four (4) spaces for each golf hole, plus one (1) space for every two (2) employees.

- I. Tourist Homes: One (1) space for each rental room.
- J. Motels: One and one half (1 1/2) spaces for each rental room.
- K. Churches: One (1) space for each three (3) seats within the main auditorium. Where pews or benches are provided, one (1) space for every six (6) lineal feet of pew or bench.
- L. Restaurants: One (1) space for each three (3) occupants, using the maximum number permitted by the Fire Marshall.
- M. Group Day Care Homes: Two (2) spaces for every three (3) children not in residence.
- N. Medical Offices, Dental Offices, and Health Clinics: Three (3) spaces per examining room, plus one (1) space per practitioner and per employee, plus one (1) space per two hundred (200) square feet of gross area.
- O. Veterinary Clinics and Animal Hospitals: One (1) parking space per two hundred and fifty (250) square feet of floor area exclusive of kennel boarding area.
- P. Public Docking, Ferry Boats and Charter Services: One (1) space per every two (2) passenger capacity for Charter Services and one (1) space per every four (4) passenger capacity for Ferry boats, plus for both, one (1) space per employee.
- Q. Marinas: One (1) space per four boat slips and one space per seven hundred fifty (750) square feet of dry boat storage area, plus one space per employee.
- R. Wineries: One (1) space per employee, plus one (1) space for each one hundred (100) square feet of floor area used for retail sales, wine tasting, or other public use including office reception areas. A minimum of five (5) automobile parking spaces are required. One (1) parking space for oversize vehicles is required for each three hundred (300) square feet of floor area used for retail sales or wine tasting with a minimum of one (1) space required. Parking for oversize vehicles shall be designed to allow drive through parking (no backing required.)
- S. Adult and Sexually Oriented Businesses: One (1) space per two hundred fifty (250) square feet of gross floor area plus one (1) space per employee.

### **SECTION 3.15.5 MIXED USES**

Where uses within individual buildings is mixed, the number of parking spaces for each specific use shall be provided, and the space for one use shall not be considered as providing spaces for any other use, except for churches.

Mixed-use developments shall comply with Section 3.15.4 Number of Parking Spaces Required.

**SECTION 3.15.6 USES NOT MENTIONED**

In the case of uses not specifically mentioned in Section 3.15.4 Number of Parking Spaces Required, but which are allowed under this Ordinance, off-street parking requirements shall be those applied to the mentioned use which is most similar in terms of parking demand.

**SECTION 3.15.7 FRACTIONAL SPACES**

Where the calculation of parking spaces required results in a fraction, any fraction less than one half (1/2) shall be disregarded, and any fraction of one half (1/2) or more shall require one (1) space.

**SECTION 3.15.8 PARKING ONLY**

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

**SECTION 3.15.9 PARKING IN REAR OR SIDE YARDS REQUIRED**

Unless otherwise approved by the Planning Commission during site plan review, all parking shall be in the rear or on sides of buildings.

**SECTION 3.15.10 MINIMUM DESIGN STANDARDS FOR PARKING AREAS**

**A. SURFACING**

Unless otherwise approved by the Planning Commission during Site Plan Review, primary parking areas for non-residential uses shall be surfaced with a hard, stable, non-erodable surface such as bituminous asphalt mixture or concrete.

Site Plans are encouraged to use water permeable parking surfaces, especially for non-primary or reserve parking areas.

**B. PARKING LOT LANDSCAPING**

Parking areas that contain in excess of five (5) parking spaces shall comply with Section 3.12.3 Parking Lot Landscaping.

**C. DIMENSIONAL STANDARDS**

The following minimum design standards shall be observed in designing off-street parking facilities:

### MINIMUM PARKING LAYOUT STANDARDS

Parking Angle In degrees	Minimum maneuvering Lane Width		Parking Lane Width In FL	Parking Space Length In FL	Total Minimum Width of 1-lane plus Maneuvering Lane (One-Way Traffic) T1 In FL	Total Minimum Width of 2-lane plus Maneuvering Lane (Two-Way Traffic) T2 In FL
	1 Way Traffic M 1 In FL	2 Way Traffic M 2 In FL				
parallel	12	18	8	23	20	34
30	14	18	9	19	33	58
45	18	20	9	18	36	66
60	20	22	9	18	38	68
90	22	24	9	18	42	80

**NOTE:** During the Site Plan Review the Planning Commission may approve alterations to these standards if it is determined that emergency vehicular access is adequate.

parallel parking	30 degree parking	45 degree parking	60 degree parking	90 degree parking

### **SECTION 3.15.11 LOADING AND UNLOADING**

All non-residential Site Plans shall provide adequate loading/unloading areas and shall indicate the proposed loading and unloading areas on the Site Plan.

### **SECTION 3.15.12 CHANGE IN USE**

Any change in use of an existing structure shall meet Ordinance standards for the new use. All changes of occupancy or use of existing commercial or industrial sites shall be reviewed by the Zoning Administrator, and may require Site Plan review to determine that parking requirements comply with this Ordinance.

### **SECTION 3.15.13 SNOW STORAGE**

An area for snow storage shall be shown on site plan. If snow removal to an area off site is planned, a statement detailing the snow removal plan shall be required on the site plan.

## **SECTION 3.16 PRIVATE ROAD STANDARDS**

### **Section 3.16.1 INTENT**

To provide standards and guidelines for private accesses to residential lots or units as provided for under this Article.

### **SECTION 3.16.2 PROJECTS REGULATED**

#### **A. APPLICABILITY**

This article shall be applicable to all accesses – whether they are easements, ways, private drives, common areas, or otherwise – by which more than two (2) residential lots or units are shared by common access. Please note that Leelanau County will not assign or recognize a private road name unless there are five (5) residences on the road.

#### **B. LIMITATIONS**

In as much as absolute convenience and safety are unobtainable at any cost and as the Township's primary legal interests in Private Roads are:

1. To determine that road frontage requirements for lots meet zoning requirements and for assigning fiscal responsibility for maintenance and other purposes; and
2. To make as certain as possible that properties can be serviced at least from the road by fire and other emergency equipment.

### **SECTION 3.16.3 STANDARDS**

A. SUBMITTAL REQUIREMENTS - The following will be required for Private Road applications, to be made on Township form:

1. Private Road Plans: This will include plan and profile drawings of the proposed private access road prepared by the Applicant's Engineer or

Surveyor in detail complete enough to be used as construction plans. Profile plans are not required where no grade exceeds five (5) percent and the number of lots served is four (4) or fewer. The drawings shall show the proposed gradients of such roads and the location of drainage facilities and structures, along with any other pertinent information.

2. Survey and legal description of private road.
3. Maintenance Agreement: Road maintenance agreement and deed restrictions satisfactory to the Suttons Bay Township attorney, signed by applicant/owner. Providing for:
  - a. Method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and usable condition.
  - b. A workable method of apportioning the costs of maintenance and improvements to current and future users.
  - c. A notice that if repairs and maintenance are not made within six (6) months of the date of official notice from the Township, Suttons Bay Township may bring the road up to the design standards of this ordinance and assess owners of parcels on the private road for the cost of all improvements, plus and administrative fee in the amount of twenty-five (25) percent of total costs.
  - d. A notice that no public funds of Suttons Bay Township are to be used to initially build, thereafter repair, or maintain the private road.
  - e. Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
  - f. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitee, vendors, tradespersons, delivery persons, and others bound to or returning from any of the properties having a need to use the road.

**B. SIGHT DISTANCE AND HORIZONTAL AND VERTICAL ALIGNMENT**  
Sight distance and horizontal and vertical alignment shall be based on a minimum design speed of fifteen (15) miles per hour and shall be in accordance with the

American Association of State Highway and Transportation Officials’ (AASHTO) “Policy of Geometric Design and Highways and Streets,” under the designation of “Recreational Roads.”

PROPOSED GRADE	LIMITATIONS
Up to and including 6%	NO limit
> 6% to 8%	A. Must be paved B. No limit on length or curve
> 8% to 10%	A. 1000 foot maximum length B. Minimum horizontal curve radius of 100’
> 10% to 12%	A. Maximum 500’ length of vertical tangent B. Minimum horizontal curve radius of 275’
No grade above 12% will be accepted.	

- The maximum grade at the stopping side of an intersection shall be two (2) percent.
- Turn-a-round areas shall have a maximum grade of three (3) percent.
- The minimum radius for turn-a-round areas shall be fifty (50) feet.
- Vertical and horizontal curves shall be used at all changes in grade or direction.

C. DESIGN STANDARDS

Unless otherwise designated in this Article, Private Road workmanship and materials shall be designed to Leelanau County Road Commission Standards for Subdivision Streets. These design standards include clearing, grubbing, grading, materials, structures, pavement, guardrail, restoration, etc. The Engineer may propose equal or preferred materials on the Road Plans.

D. DRAINAGE

Unless waived by the township, a drainage plan submitted on a topographic map with no larger than two (2) foot contour intervals shall be submitted, indicating the manner in which surface drainage is to be disposed of. In no case shall runoff from a subdivision be diverted due to construction beyond the limits of that subdivision onto adjacent property unless appropriate easements are provided. A crown of sufficient slope to insure drainage shall be provided across the width of the traveled-way for either gravel or bituminous surfaced roads. The plan shall meet the requirements of the Leelanau Conservation District and the Leelanau County Drain Commissioner’s Office.

E. LENGTH, WIDTH, AND VERTICAL CLEARANCE

The right-of-way (ROW), preserved by recorded easements, the traveled way, shoulders, utility areas and cleared zones are to be minimally dimensioned as shown below, depending on the number of lots served.

Type or Class	Number of lots/residents to be served	Traveled Way Width	Shoulder Width (both side)	Recorded ROW Easement	Type of Surface Required	Type of Turn-a-round
ALL MEASUREMENTS IN FEET						
I	Up to 8	18	1	40**	Gravel or better*	“T” Type
II	9 through 24	20	2	40	Gravel or better*	Cul-de-Sac
III	More than 25	22	3	66	Bituminous	Cul-de-Sac
Note: There may be more than one classification of private roads within a development, however an individual road must maintain the same classification throughout its length.						
*Roads greater than 6% must be paved. **The required right-of-way of Class I roads may be reduced to 30 feet by the Zoning Administrator if drainage and utilities are accommodated within the easement or separate easements.						

See Figure 1 for illustration of private road dimensions.

#### F. SHOULDERS

Shoulder material shall be of a type that when compacted will not rut or displace under traffic, and shoulder design and ditch construction shall adequately drain water away from the roadway, while preventing erosion.

#### G. SIGNS

At a minimum a stop sign must be placed at the intersecting county roads. The applicant shall furnish and erect private road name signs at all intersections within the subdivision and entrances thereto. Road name signs must be in conformance with the Leelanau County Address Ordinance. Please note that Leelanau County will not assign or recognize a private road name a road name unless the road serves more than five (5) residences.

#### H. PRIVATE ROAD ACCESS ALIGNMENT

1. Private Access Roads should intersect with each other or with public roads at ninety (90) degrees or closely thereto and in no case less than seventy (70) degrees.
2. Where the proposed continuation of an access road at an intersection is not in good alignment with the opposing road, it must not intersect the crossroad closer than one hundred seventy-five (175) feet from such opposite existing road, as measured from the centerline of said roads.
3. For the end of any private access road, the design must provide a turn-a-round for large vehicles, such as a fire truck. Other types of turn-a-rounds may be used if approved by the Township.



#### **SECTION 3.16.4 REQUIREMENT OF PRIVATE ROAD AGREEMENT AND NOTICE**

Prior to the sale of any units within the project the developer shall record with the Leelanau County Register of Deeds office the following notices against all lands served by the access:

- A. "Access to the lots or residential units within the following described property will not be maintained by the Leelanau County Road Commission." [Set forth a legal description of the entire subdivision property perimeter.]
- B. The Township is not responsible nor shall the township be obligated in any manner to perform regular inspections of this private road or to provide necessary repairs or maintenance.
- C. A copy of the recorded notice shall be given to the zoning administrator before approval of the final plat (if applicable) or, in any event, before the conveyance of any lot or unit within the subdivision.
- D. Notice of Easement - All purchasers of property where a private road provides access to the premises shall, prior to closing of the sale, receive from the seller a notice of easement, in recordable form, substantially conforming to the following: "This parcel of land has private road access across a permanent \_\_\_\_ (insert size of easement) foot easement which is a matter of record and a part of the deed. This notice is to make the purchaser aware that this parcel of land has egress and ingress over this easement only. Neither the County nor the Township has any responsibility for maintenance or upkeep of any improvement across this easement. This is the responsibility of the owners of record. The United States mail service and the local school district are not required to traverse this private improvement and may provide service only to the closest public access. (Michigan P.A. 134 of 1972, as amended.)

#### **SECTION 3.16.5 EXISTING NON-CONFORMING PRIVATE ACCESS ROADS**

Roads existing and used as private access roads at the time this Article becomes effective, and which do not meet all the design requirements specified herein, may continue to be used, provided that the safety features necessary for passage of emergency vehicles, such as minimum traveled way width of twelve (12) feet and overhead clearance of fourteen (14) feet, are met prior to the issuance of land use permits to those lots or parcels to be served by the private access road.

Roads existing and used as private access roads at the time this Article becomes effective, and which do not meet all the design requirements specified herein, must meet the requirements of this Article if they are to be used to access additional lots created from the effective date of this Article.

### **SECTION 3.16.6 ADMINISTRATION AND VARIANCES**

The Zoning Administrator shall review all private access road construction plans to determine conformity with this Ordinance. Any applications for approval to the Ordinance shall be submitted to the Administrator along with the applicable fee. Variances shall only be considered and approved by the ZBA provided:

- A. The proposed variance does not result in reduced safety, durability, drainage, erosion control, or the all-weather access aspects of the project; and,
- B. If deemed necessary by the Suttons Bay Township Board, the applicant deposits with the request for variance, sufficient funds estimated to cover the cost to the Township of retaining a civil engineer to review the variance request, submit opinions thereon to the Township Board and draft conditions for approval. The minimum fee shall be as established by the Township Board and the administrator shall determine the amount of deposit, based in the estimated review of cost, if greater than the minimum.

### **SECTION 3.16.7 CONSTRUCTION & CERTIFICATION**

- A. Private Roads shall be constructed in accordance with the approved plans. Revisions must be approved by the Township.
- B. Upon completion, the construction of the Private Road must be certified in writing by an Engineer. Roads not required to have Engineering drawings under Section 3.16.3.A Standards may be certified by the Owner or their Agent.
- C. Certification must be received prior to issuance of any Land Use permits for lots on the Private Road, unless a financial guarantee is on file to ensure completion of the road.
- D. Zoning Administrator shall review the road upon receipt of the Certification to verify compliance.

### **SECTION 3.17 SIGNS**

In an attempt to improve the appearance of signs in the Township, the following provisions permitting the erection and maintenance of permanent and temporary signs will be permitted if the following requirements are met.

#### **Section 3.17.1 PERMANENT SIGNS**

Signs that are intended for and are built to withstand long-term use. All permanent signs require a sign permit with the exception of No Trespassing and No Hunting signs. The following are considered permanent signs:

- A. One on premise identification sign of not more than sixteen (16) square feet may be erected on the premises as a part of any business or activity conducted thereon in any district, except that signs relating to home businesses shall be controlled by

the provision of Section 14.2.3 Conditions. This includes signs for religious assembly, Rotary or service clubs, and other quasi-public uses.

- B. Signs of not more than 16 square feet in area, pertaining to business physically located and carried on in the Township off the business premises, shall be permitted on any unimproved real estate in any residential district provided they are located not less than five hundred (500) feet from any existing residence. Such signs shall be permitted anywhere in all other districts, and provided, further, no business shall be entitled to more than two free-standing roadside signs in the Township. All other off-premise signs are prohibited.
- C. Off premise signs for religious assembly, rotary or service clubs, and other quasi-public uses shall be no larger than six (6) square feet.
- D. The square footage of permanent signs located along M-22 or M-204 may be increased to twenty-four square feet.
- E. Clustered Signs – Clustered signs shall be grouped on a free-standing post or pedestal. Individual advertising shall be not more than sixteen (16) square feet in area. Signs of this type shall be considered off-premise, entitling businesses or other organizations that advertise another sign under Section 3.17.1.A Permanent Signs.
- F. Farm Markets - no more than one (1) permanent sign shall be erected, no greater than twelve (12) square feet in area. For the safety of the general public, no spinners, pennants, flags, flashing lights, reflectors, flicker tape, or other distractive devices may be used in conjunction with any sign or business.
- G. Subdivision Development Signs – One (1) identification sign of not more than sixteen (16) square feet may be erected and landscaped on the premises for subdivision development in any district. In addition, an initial real estate sale sign of not more than sixteen (16) square feet shall be permitted to advertise unsold real estate in the development. Individual “For Sale” signs advertising initial sale of real estate shall be prohibited.
- H. No Trespassing or No Hunting signs shall be limited to two (2) feet square and may be posted without permit, as needed.
- I. Campground Signs - A sign shall be allowed at the campground entrance. Such sign shall not exceed fifteen (15) square feet in area, with the top no higher than six (6) feet off the ground. An additional directional sign shall be allowed off premises with a maximum area of eight (8) square feet. The off-premises sign shall not be located within a road right-of-way, permission must be obtained from the property owner, and such sign shall meet all of the other requirements of this Ordinance. Drawings showing the proposed sign(s) shall be submitted for issuance of a Land Use Permit for the sign(s).

### **Section 3.17.2 TEMPORARY SIGNS**

Signs that are limited to a three (3) month maximum existence and do not need a sign permit.

- A. No poster type signs shall be tacked on poles or trees or otherwise erected. For Sale or For Rent signs shall be located only on the property that is for sale or for rent and shall not be more than (4) square feet in size and may be placed without a permit. These signs shall be limited to (2) signs for each parcel of land.
- B. Roadside Stands - no more than two (2) one-sided signs that may be one or two-sided shall be erected, and said signs shall be no larger than nine (9) square feet in area, per side. The sign(s) shall be removed when the stand is closed and removed for the season. For the safety of the general public, no spinners, pennants, flags, flashing lights, reflectors, flicker tape, or other distractive devices may be used in conjunction with any sign or business. Roadside signs shall comply with MDOT and local County Road Commission regulations.
- C. Political signs may be erected for sixty (60) days before the election and shall be removed within ten (10) days after the election, and may be erected within any district in the Township.
- D. Garage Sale signs shall be limited to two per garage sale and may be posted for a three (3) day period

### **Section 3.17.3 STANDARDS**

- A. For the safety of the general public, no spinners, pennants, unshielded lights or lights directed horizontally at sign faces which may distract on-coming vehicles, flashing lights or other distractive devices may be used in conjunction with any sign or business.
- B. No sign shall have a height greater than eight (8) feet above grade (being the unaltered ground gradient). No message shall be printed outside the area of the sign face. Any elements such as support legs or a solid base shall not be included in the square footage computation so long as they are separated from the sign face by a reveal or a change in materials. Square footage calculation shall include such elements as decorative borders, top caps, and drop signs.
- C. Square footage of signs located on buildings shall be included in the total square footage allowed for a permanent sign.
- D. Illuminated Signs: In all districts, as permitted in this Ordinance, signs which are illuminated shall be allowed, provided such signs and lighting are so shielded as to prevent direct light rays/beams from the source of light which would provide a

hazard or nuisance when intruding/invading into the public right-of-way or any adjacent property, and provided they are within the following applications:

2. Back-lighted individual opaque reverse channel letterforms silhouetted against their background with a diffused light source.
3. Internally illuminated individual letterforms and logos with translucent faces, containing soft, diffused light sources inside each letter or logo.
4. Metal-faced box signs with cut-out letterforms of logos illuminated with a soft, diffused light source; or
5. Plastic-faced metal box signs with translucent letterforms or logos and colored opaque backgrounds illuminated with a soft, diffused light source.

E. All signs shall comply with MDOT and local County Road Commission regulations.

#### **SECTION 3.17.4 NON-CONFORMING SIGNS**

It is the intent of this ordinance to encourage all signs to conform to this section. Therefore, non-conforming signs shall be removed upon a change in use, ownership, occupancy, building expansion, or when a sign no longer has meaning. Any subsequent sign must conform to the sign ordinance. The size of any existing sign shall not be altered unless it conforms to this sign ordinance.

(Annotation: Section 12.7 replaced by Amendment 02-003 effective November 21, 2002)

#### **SECTION 3.18 OUTDOOR LIGHTING STANDARDS**

##### **SECTION 3.18.1 INTENT**

Outdoor lighting standards are intended to prevent unwanted illumination of adjacent properties, maintain safe nighttime vehicular and pedestrian traffic, and to protect the character of the night sky from light pollution originating from light fixtures.

##### **SECTION 3.18.2 REGULATIONS**

- A. Outdoor lighting shall be designed and constructed in such a manner as to:
1. Insure that direct or directly reflected light is not directed off the property.
  2. Insure that light sources and lenses are shielded, hooded or louvered to provide a glare free area beyond the property line or edge of any public or private road right-of-way.
- B. The maximum height of light standards shall not exceed the maximum building height, or twenty-five (25) feet whichever is less.

- C. All lighting fixtures shall be provided with ninety (90) degree cutoff luminaries at minimum. Lesser cutoff shall be provided where necessary to provide proper lighting without hazard to drivers or nuisance to residents.
- D. Outdoor recreational and amusement area lighting shall be equipped with baffling or other devices to assure that the requirements of Section 3.18 Outdoor Lighting Standards are met.
- E. In no case shall light sources be visible beyond lot lines nor shall direct or directly reflected light be reflected on to adjacent properties or public or private roads nor to the night sky.
- F. There shall be no lighting of a blinking, flashing or fluttering nature, including changes in light intensity, brightness or color. Beacon lights, search lights, or lasers are not permitted.
- G. Colored lights shall not be used at any location nor in any manner where they might be confused with traffic control devices.

### **SECTION 3.18.3      EXCEPTIONS**

- A.     The following types of outdoor lighting are exempt from the above regulations except that there are no exemptions from Section 3.18.2.F. above.
  - 1. Residential decorative lights such as low-wattage incandescent porch lights, low level lawn lights, or Christmas lights.
  - 2. Traffic control, warning lights, or signal lights required because of traffic regulations.
  - 3. Neon lights.
  - 4. Commercial and institutional holiday decorative lights, provided they do not include search lights, strobe lights, or flood lights.
  - 5. Fossil fuel lights such as kerosene lanterns and gas lights.
  - 6. Use of lights during agricultural activities. Floodlights or spotlights used in these instances are not exempt from the requirements of Section 3.18.2.F above.
- B. Security lighting energized by motion detection devices is exempt from height limitations.

#### **SECTION 3.18.4 NONCONFORMING LIGHTING**

Any nonconforming use of lighting existing prior to (the effective date of this amendment) may be repaired or maintained. Fixtures needing replacement shall be replaced with fixtures conforming to the requirements of Section Section 3.18 Outdoor Lighting Standards. After five (5) years from August 14, 1996 all outdoor lighting shall be brought into conformance with the requirements of this ordinance.

## ARTICLE 4 AGRICULTURAL DISTRICT

### SECTION 4.1 INTENT

The intent of the Agricultural District is to encourage and maintain agriculture as part of a balanced and diversified economy, and to protect viable farmland from encroachment by other uses. It is also intended to provide a low density rural atmosphere which will accommodate the growing demand for residential development, while still protecting scenic and ecologically sensitive areas which make Suttons Bay Township attractive both to home ownership and to the tourism so important to Leelanau County. Large minimum frontage requirements are designed: to permit larger side setbacks to protect adjacent farmland, to discourage the long narrow lots which extend wastefully into agricultural land and which are used to get around platting and lot area requirements, and to avoid frequent driveway cuts which pose safety hazards and reduce the carrying capacity of public roads. Lot sizes will be large enough to provide for individual wells and septic systems.

Certain recreational uses are also appropriate in the Agricultural District. Recreational trails, day camps, conservation clubs, and county and/or township parks are uses that, in certain areas, could be compatible with the character of the district.

(Annotation: Above paragraph added by amendment 04-004 effective December 1, 2004)

### SECTION 4.2 USES PERMITTED BY RIGHT

- A. One (1) Single Family Detached Dwelling per lot.
- B. Farming, including but not limited to dairying, raising grain, grass, mint, and seed crops, raising vegetables, orchards, silviculture, raising nuts and berries, floriculture, raising ornamental trees, shrubs, and nursery stock, greenhouses, sod farming, apiculture, and aquaculture.
- C. Family Day Care Homes. They shall be registered with the Department of Social Services.
- D. Wildlife Management Areas, plant and wildlife conservancies, refuges and sanctuaries.
- E. Adult Foster Care Family Care Homes. They shall be licensed by the Michigan Department of Social Services. The area required by the District Health Department for an AFC septic system is a great deal larger than for a single family dwelling of comparable size, and should be checked out before building an AFC facility.
- F. Veterinary Clinics. They shall be operated by a state licensed veterinarian.



### SECTION 4.3

### USES PERMITTED WITH CONDITIONS

These uses are permitted if they meet the requirements listed or referenced for the particular use.

- A. One (1) Duplex per lot of two (2) acres or more. (Annotation: Section amended by Amendment 14-002 effective November 28, 2014)
- B. Manufactured or Mobile Homes are recognized by Suttons Bay Township as valid single family dwellings. They are permitted under the same conditions as any other single family detached dwelling, provided:
  - 1. The home is used as a single family dwelling.
  - 2. It is attached to a permanent foundation.
  - 3. It has County Health Department approval for well and septic systems.
- C. Bed and Breakfasts, provided they meet the requirements of Section 14.3 Bed and Breakfasts.
- D. Home Occupations, provided they meet the requirements of Section 14.1 Home Occupations.
- E. Home Businesses, provided they meet the requirements of Section 14.2 Home Businesses.
- F. Group Day Care Homes, provided:
  - 1. There are no more than twelve (12) children, including those children less than seven (7) years old in the resident family.
  - 2. Parking is provided off the road right-of-way for two (2) cars for every three (3) children not in residence.
  - 3. Playground equipment shall be thirty (30) feet from side and rear lot lines.
  - 4. The home shall be licensed by the State Department of Social Services.
- G. Roadside Stands, provided:
  - 1. The agricultural produce sold are grown or produced (honey, syrup) in Leelanau County. Sale of craft items is limited to those produced on the property. Sale of items not grown or produced in Leelanau County is prohibited.

2. The roadside stand shall be located on property owned by the seller and shall not be located in the road right-of-way.
3. No less than two (2) or more than four (4) customer parking spaces shall be provided off the public road right-of-way.
4. No more than two (2) one-sided signs that may be one or two-sided shall be erected, and said signs shall be no larger than nine (9) square feet in area, per side. The sign(s) shall be removed when the stand is closed and removed for the season. For the safety of the general public, no spinners, pennants, flags, flashing lights, reflectors, flicker tape, or other distractive devices may be used in conjunction with any sign or business. Roadside signs shall comply with MDOT and local County Road Commission regulations.
5. No land use permit or Planning Commission review shall be required as a roadside stand is defined as a temporary structure.  
(Annotation: Subsection changed by Amendment 01-005 effective July 26, 2001)

H. Agricultural Support Industry (A.S.I.): The industry shall be farm related and is not intended to detract from the agricultural emphasis of the farm or to become a concentration of manufacturing or industrial activity which would appropriately be located in a light manufacturing district because of size or intensity of use. A.S.I.'s shall be allowed provided the following conditions are met:

1. The A.S.I./A.S.I.'s shall be operated on a farm of ten (10) acres or more in size.
2. The Accessory Buildings used for an A.S.I. shall have no exterior evidence, other than a permitted sign, to indicate that it is being used for any purpose other than farm/agricultural purposes.
3. The Accessory Building shall not be altered or modified to a point so that it cannot be returned to a normal farm use with a minimum of effort.
4. The building(s) and lot area devoted to an A.S.I./A.S.I.'s shall remain part of the principal farm unit and shall not be sold as a separate entity.
5. The area devoted to an A.S.I./A.S.I.'s shall not exceed two thousand four hundred (2,400) square feet.
6. No A.S.I. shall be conducted upon or from the premises which would constitute nuisance or annoyance to adjoining property owners by reason of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises.

7. All A.S.I.'s shall be subject to annual inspection by the Zoning Administrator and may be terminated by the Administrator whenever same fails to comply with this Ordinance.

I. Keeping horses, provided:

1. There shall be a minimum of two (2) acres for one (1) or two (2) horses.
2. There shall be one (1) additional acre for each additional horse.

J. Keeping horses for profit, provided:

1. There shall be a minimum of ten (10) acres for the first two (2) horses.
2. There shall be one (1) additional acre for each additional horse.

K. Keeping dogs, provided:

1. Kennels and any accessory pens housing more than two (2) dogs shall not be closer to any lot line than fifty (50) feet.
2. If a dog is tethered, the tether shall not permit him to reach within fifty (50) feet of any lot line.

L. Food Processing, provided:

1. The food processed is grown by the proprietor(s).
2. The Food Processing is in compliance with the regulations of the Michigan Department of Agriculture and the Michigan Department of Natural Resources.
3. The lot area is at least ten (10) acres.
4. The Food Processing and food storage areas/structures occupy no more than eight thousand (8,000) square feet.
5. Retail sales are clearly accessory to food production, and shall occupy no more than twenty-five (25) percent of the floor area devoted to food production.
6. Entrance from the public road must be approved by the County Road Commission.

M. Farm Market, provided:

1. The lot size shall be no less than ten (10) acres with no less than four hundred sixty (460) feet of road frontage.
2. The actual area under roof used for the display and sale of farm produce shall not be greater than one thousand (1,000) square feet.
3. The minimum setback for any structure and parking is one hundred (100) feet. Vegetative planting or agricultural use of land is encouraged between the structure and the road right-of-way.
4. There shall be one parking space provided for each one hundred (100) square feet of usable floor space and one additional space for every two employees.
5. Sales shall be limited to: seasonal farm products such as fruit, vegetables, or baked goods; plant nursery stock; or farm related products such as milk, cheese, honey, preserves or butter. Sale of other items (pop, candy, newspapers, crafts, etc.) shall not exceed ten (10) percent of all goods sold.
6. Sales of plant nursery stock shall be limited to that which has been grown in Leelanau County for at least one (1) full growing season, i.e. planted in the spring, sold no sooner than the next spring, except that bedding plants, sown on the premises, may be sold when ready for market.
7. Sales: Sales shall be derived from products grown or produced within the five (5) county region of Antrim, Benzie, Kalkaska, Grand Traverse, and Leelanau counties and at least twenty-five (25) percent from products grown on the premises, or on land owned by the farm market operator.
8. No more than one (1) permanent sign shall be erected, no greater than twelve (12) square feet in area. For the safety of the general public, no spinners, pennants, flags, flashing lights, reflectors, flicker tape, or other distractive devices may be used in conjunction with any sign or business.  
(Annotation: Subsection changed by Amendment 01-004 effective July 26, 2001)

#### N. Public Recreational Trails

1. Trail setbacks –
  - a. The edge of the trail shall be twenty (20) feet from any property or easement line.
  - b. Trail setbacks shall not apply where the trail crosses a public or private road right-of-way or property line.

2. Buffers – When a residence is located within fifty (50) feet of a trail it shall be subject to the requirements of Section 3.12 Landscaping, Screening, Buffers and Greenbelts. The Planning Commission may reduce or waive any buffering or screening requirement if existing vegetation is sufficient or if the trail is located in an area where compatibility with adjoining property is not an issue.
3. Parking –
  - a. Off street parking shall be provided. Parking area shall be shown on the site plan and may be located in another jurisdiction.
  - b. Parking on public or private streets and roads shall be discouraged. Problems with on-street parking shall be determined by the Zoning Administrator or the Leelanau County Sheriff's Department and a traffic control order may be pursued.
4. Signage – Signage shall comply with AASHTO standards for recreational trails and Section 3.17 Signs.
5. Hours –
  - a. Trail use - dawn to dusk.
  - b. Grooming hours – daylight hours.
6. Special Events – Special events shall be allowed. Events shall be conducted without impact on surrounding property.
7. Trespassing – The owners of the trail shall be accountable for discouraging trespassing problems on private property.
8. Surfacing – Paving (optional) shall comply with AASHTO standards and shall obtain Drain Commission approval.
9. Trail Rules - Trail owners shall prepare and submit to the Township regulations that insure mitigation of potential trail use impacts including, but not limited to noise, trespassing, and littering. These regulations and hours of operation shall be posted at the trailhead. The owner of the trail shall be responsible for the enforcement of all regulations.
10. Site Plan Review shall be required if lighting or restrooms are to be provided. Site plan review shall also be required for trails that run fifty (50) feet from a residence.

(Annotation: Subsection added by amendment 04-004 effective December 1, 2004)

## O. Public Parks

1. Site Plan Review  
All projects shall be subject to Article 19 Site Plan Review and to Michigan Planning Act Section 10 review for location, character and intent.
  2. Dimensional Requirements  
Setbacks – all parks and park related structures located within any zoning district in the township shall be subject to the Agricultural Zoning District standards and Section 3.6 Schedule of Area, Height, and Placement Regulations. All structures shall be reviewed by the Planning Commission for location, character and intent as stated above.
  3. Buffering - subject to the requirements of Section 3.12 Landscaping, Screening, Buffers and Greenbelts. The Planning Commission may reduce or waive any buffering or screening requirement if existing vegetation is sufficient or if the park is located in an area where compatibility with adjoining property is not an issue.  
(Annotation: Subsection added by amendment 04-004 effective December 1, 2004)
- P. Open Space Residential Developments, sometimes referred to as Cluster Housing, provided that the requirements of Article 16 Open Space Residential Land Development, are met.  
(Annotation: Subsection added by amendment 106 effective October 27, 2006)

#### **SECTION 4.4 SPECIAL USES**

These uses are permitted when the Suttons Bay Township Planning Commission determines that the uses meet the standards and criteria of Article 20 Special Land Use Permits, and Article 19 Site Plan Review, as well as the general criteria of this District and the individual criteria for each use.

- A. Duplex Housing, provided:
1. Development shall not be sited on Prime Farmland Soils as shown on the Prime Farmland map in the *Suttons Bay Community Joint Master Plan* (August 2011, p. 47).
  2. Lot width required is a minimum of two hundred (200) feet on public or approved private road.
  3. Minimum lot size is two (2) acres.
  4. Setbacks:
    - a. The Planning Commission may require greater setbacks to minimize impact on surrounding properties as per the requirements

of Section 12.6 Landscaping, Greenbelts, Buffers, Screens and Fences.

- b. Front setback shall be sixty (60) feet.
5. Maximum density is one (1) duplex per acre up to five (5) duplexes allowed per parcel.
6. Minimum square footage per dwelling unit is six hundred (600) square feet.
7. Maximum lot coverage shall not exceed twenty-five (25) percent.
8. Applicant must have Health Department evaluation or permit to insure adequate well and septic capabilities prior to applying for a Special Land Use Permit. (Annotation: Section added by Amendment 14-002 effective November 28, 2014)

B. Multi-family Housing, provided:

1. Development shall not be sited on Prime Farmland Soils as shown on the Prime Farmland map in the *Suttons Bay Community Joint Master Plan* (August 2011, p. 47).
2. Lot width required is a minimum of three hundred (300) feet on public or approved private road.
3. Minimum lot size is two (2) acres.
  - a. Maximum density of single-story buildings is four (4) dwelling units per acre.
  - b. Maximum density of two-story buildings is eight (8) dwelling units per acre.
  - c. Maximum density on one parcel is sixteen (16) dwelling units.
4. Setbacks:
  - a. The Planning Commission may require greater setbacks to minimize impact on surrounding properties as per the requirements of Section 3.12 Landscaping, Screening, Buffers and Greenbelts.
  - b. Front setback shall be sixty (60) feet.

5. Minimum square footage per dwelling unit is six hundred (600) square feet.
6. Maximum lot coverage shall not exceed twenty-five (25) percent.
7. Applicant must have Health Department evaluation or permit to insure adequate well and septic capabilities prior to applying for a Special Land Use Permit. (Annotation: Section added by Amendment 14-002 effective November 28, 2014)

C. Multi-family and/or Duplex Housing within Village Growth Management Area as shown in the *Suttons Bay Community Joint Master Plan* (August 2011, p. 56; p. 42), provided:

1. Lot width required is a minimum of two hundred (200) feet on public or approved private road.
2. Minimum lot size is two (2) acres in Agricultural District.
  - a. Maximum density of single-story buildings is four (4) dwelling units per acre.
  - b. Maximum density of two-story buildings is eight (8) dwelling units per acre.
3. Setbacks:
  - a. Front setback shall be forty (40) feet.
  - b. Side setbacks shall be fifteen (15) feet.
  - c. Rear setback shall be thirty (30) feet.
4. Minimum square footage per dwelling unit is six hundred (600) square feet.
5. Maximum lot coverage shall not exceed twenty-five (25) percent.
6. Applicant must have Health Department evaluation or permit to insure adequate well and septic capabilities prior to applying for a Special Land Use Permit. (Annotation: Section added by Amendment 14-002 effective November 28, 2014)

D. Seasonal Worker Housing, provided:



1. Such housing is limited to one (1) family dwelling unit or equivalent per four (4) acres of the parcel devoted to agriculture. The number of dwelling units or equivalent shall not exceed five (5) in any one development of seasonal worker housing. The units may be clustered but the parcel of land used in calculating the density shall remain intact for the term of the Special Land Use permit. For purposes of density calculations, dormitories shall be calculated at four (4) residents being the equivalent of one (1) dwelling unit.
2. Fifty (50) percent of the land used in calculating the density for any grouping of seasonal worker housing is contiguous.
3. The minimum parcel in which seasonal worker housing is to be developed shall be twenty (20) acres.
4. A minimum setback from any road or property line of one hundred (100) feet shall be maintained. Any seasonal worker housing unit shall be located no less than two hundred (200) feet from any existing dwelling excepting only the dwelling of the owner of the land.
5. Seasonal worker housing units shall be effectively screened from view from any residential structure existing at the time of application for a special land use permit except that of the owner of the premises and from any road existing at the time of application.
6. Agricultural labor to be housed shall be employed in farming operation on the premises. The word "premises" shall include any other farmlands in the vicinity owned or operated by the owner of the premises upon which the seasonal worker housing units are located except that employment on other farmlands will be permitted for no more than the eight (8) weeks before or after performance of labor for the owner of the premises.
  - a. "Owner" under this section may include a consortium in which case "premises" shall include farmlands owned by individual members of the consortium. In the event a parcel is developed by a consortium for seasonal worker housing the membership list of the consortium shall be made part of the application for a special land use permit.
7. Free and easy access for fire-fighting equipment, by means of an all-weather drive a minimum of fourteen (14) feet wide is available. All weather parking shall be provided at the rate of two (2) parking spaces per dwelling unit or equivalent.
8. All buildings containing dwelling units or dormitory accommodations shall be spaced a minimum of twenty (20) feet apart.

9. Seasonal worker housing shall not be used for general rental housing.
10. Prior to receiving a special land use permit the developer shall have obtained all required State and local approvals related to the seasonal worker housing development."

E. Golf Courses, provided:

1. The site area shall have its main ingress and egress from a State or County road having a bituminous aggregate surfacing. Should the road not meet the above conditions, a plan shall be submitted indicating how the proprietor will meet the above conditions within a reasonable time limit. This plan and a surety bond, certified check or irrevocable bank letter of credit, in an amount sufficient to cover the cost of implementing the plan, will be considered as meeting the above conditions.
2. The site area shall be sixty (60) acres or more for a nine (9) hole course, and one hundred and twenty (120) acres or more for an eighteen (18) hole course.
3. Refer to Section 12.5.4.H for parking requirements.
4. All principal and accessory buildings, structures, and parking areas shall be not less than forty (40) feet from any road right-of-way, and not less than two hundred (200) feet from any adjoining property line.
5. The site shall be screened by open structure wooden or woven wire fences along all adjoining property lines, except along the road right-of-way. The fencing shall be a minimum of forty-six (46) inches in height but shall not exceed six (6) feet in height. The screening may consist of shrubs and/or trees, alone or in combination with structural screens. This requirement may be waived if the proprietor submits written waivers from adjoining property owners.
6. A clubhouse/pro shop, containing managerial facilities, toilets, lockers and food services, may be allowed in conjunction with the Golf Course. The clubhouse is intended to serve those individuals using the golf course; it is not intended to be used as a meeting/rental hall by the general public, nor are the food services intended to serve the general public.

F. Solid Waste Transfer Stations, subject to the following conditions in the interest of safety, reduction of noise and obnoxious odors, and of visually shielding such operations from adjacent rights-of-way and property owners:

1. Any proposed Solid Waste Transfer Station under this section shall be consistent with the approved Leelanau County Solid Waste Management Plan, as evidenced by a letter from the authorized solid waste planning agency, the Leelanau County Planning Department.
2. The transfer station and operator shall be licensable by the Michigan Department of Natural Resources under Public Act 641 of 1978, as amended, and the DNR rules.
3. The minimum lot area shall be five (5) acres.
4. All buildings, structures and processing machinery shall be set back not less than:
  - a. One hundred and fifty (150) feet from any public right-of-way.
  - b. One hundred (100) feet from all other lot lines.
  - c. Two hundred (200) feet from any lake, creek, stream or wetland.
5. No off-street parking shall be allowed within forty (40) feet of an adjoining public right-of-way.
6. No parking and no storage of any kind shall be allowed within fifty (50) feet of the rear or side lot lines adjoining neighboring property.
7. Wherever possible, the existing natural vegetation shall not be removed from the required setbacks.
8. All storage areas outside an enclosed building shall be visually screened by a fence or wall at least six (6) feet in height above the finished grade, or by trees and/or shrubs alone or in combination with structural screens.
9. The transfer station shall be located on a paved road.
10. The transfer station shall have three hundred (300) feet of road frontage which is zoned Agricultural.

G. Sand and Gravel Extraction provided:

1. Every precaution is taken to guard against hazards of all kinds for the full protection of the general public.
2. No mining shall be conducted within one hundred and sixty-five (165) feet of any public road right-of-way, nor closer than one hundred (100) feet from any neighboring property line.

3. No more than five (5) acres of land may be actively mined at one time.
4. Previously mined areas shall be reshaped to usable grades, and cover restored to prevent erosion.
5. This use shall be considered a temporary use. A time schedule for completion of each phase of the mining and a plan for restoration of the site, acceptable to the Suttons Bay Township Planning Commission, shall be required. A surety bond, irreversible bank letter of credit, or certified check sufficient to cover the cost of restoration may be required by the Planning Commission.

H. Sawmills (See Section 2.2 Definitions), provided:

1. The Sawmill shall not be located within two hundred fifty (250) feet of any lot line, nor road right-of-way.
2. The Sawmill shall not be located within two hundred fifty (250) feet of the shoreline of any lake, creek, stream, or wetland.
3. Wherever possible, the existing vegetation shall not be removed from the setbacks. Where existing vegetation is insufficient to act as a screen and buffer, three rows of conifer trees shall be stagger planted and maintained on the perimeter of the lot, spaced seven (7) feet apart in accordance with the recommendations of the Leelanau County Soil Conservation Service. Trees shall be planted outside the road right-of-way.
4. The lot shall have a minimum area of ten (10) acres.

I. Commercial Storage of boats and vehicles. It is our intent to provide for the seasonal storage of boats and vehicles in secluded settings where they will not become eyesores, or a nucleus for further commercial development. Such storage shall be subject to the following conditions:

1. Only currently licensed boats, cars, trucks, recreational vehicles, campers, trailers for recreational vehicles and boats, and equipment necessary to the principal use, shall occupy the storage area.
2. The storage lot shall be a minimum of two (2) acres in size.
3. The actual storage area shall not be located so that it can be viewed from the surrounding land.
4. Nothing shall be stored in the setbacks.

5. If the storage area is protectively fenced, such fencing shall be around the storage area itself, and not along the lot perimeter.
6. Natural vegetation and/or plantings in the setbacks shall buffer and completely screen from view the storage area and any protective fencing from any public road and from neighboring properties.
7. No repairs and servicing shall be permitted.
8. The lot cannot be used for other storage purposes.
9. The location of driveways entering the lot from any public road must be approved by the County Road Commission.

J. (Annotation: Section amended by Amendment 13-001, effective April 26, 2013)  
(Annotation: Section amended by Amendment 16-003, effective February 24, 2017)

Wineries, and Cideries are allowed as a Special Use in Suttons Bay Township's Agricultural District when the following conditions and standards are met as well as the governing standards for Special Land Uses. It is the intent of this section to encourage the growing of wine and cider crops and production of these beverages as an integral component of the rural and agricultural character of Suttons Bay Township, and to maintain the viability of fruit and other crop farming through value added processing and direct sales of these and related beverages made from locally grown crops. It is also the intent of this section to promote local agri-tourism by allowing construction of a tasting room and retail sale of related products in the agricultural district subject to this ordinance.

Wineries and Cideries are permitted, provided:

1. The winery or cidery must, if required, be properly licensed by any local, state, or federal regulatory agency.
2. Parcel requirements:
  - a. The minimum lot area shall be at least five (5) acres.
  - b. The parcel shall contain a minimum of two (2) acres of planted farm crops that support the production of products produced by the licensee.
  - c. The minimum parcel width shall be at least three hundred (300) feet.
3. Setbacks:

- a. All buildings shall be set back at least fifty (50) feet from any lot line. If the building is open to the public, that building shall be set back at least one hundred (100) feet from any lot line.
  - b. Preexisting structures prior to the date of the adoption of this ordinance (1993) may be utilized. To encourage the use of existing buildings, the setback requirements may be reduced to the other standards of the district, subject to site plan review by the planning commission.
  - c. The Planning Commission may require greater setbacks if necessary to buffer adjacent properties as determined during the Special Land use permit process.
4. The total land area covered by buildings and structures used for production, storage and sales does not exceed two (2) percent of the parcel area.
5. The above ground portion of any individual building shall not be greater than six thousand (6,000) square feet for the first ten (10) acres of land dedicated to the facility.
  - a. For every additional ten (10) acres of contiguous property dedicated to the facility an additional one thousand (1,000) square feet of area is allowed, up to a maximum of ten thousand (10,000) square feet.
  - b. Building area used to support the facility may be comprised of a single building or multiple buildings. The processing and storage areas/structures may occupy no more than ten thousand (10,000) square feet.
  - c. Underground buildings are not limited to, and may be in addition to, the total square footage limitations of the facility provided that said buildings are below pre-existing ground level and have no more than one (1) loading dock exposed.
6. Equipment and materials related to the facility must be stored within a structure when not in use.
7. One (1) single family dwelling may be allowed upon the parcel utilized for the facility.
8. Entrance from the public road must be approved by the County Road Commission or Michigan Department of Transportation with concurrence from the Suttons Bay Township Planning Commission as part of the site

plan review process. Public drive access shall be limited to one (1) access off a public road.

9. Tasting, retail sales and food service areas combined shall occupy no more than one thousand five hundred (1,500) square feet. This square footage includes both indoor and outdoor spaces. This space may be separate or attached to the processing facility.
10. Retail sales shall be limited to beverages produced under the license of the facility, food products produced on the premises, logo merchandise, and beverage related paraphernalia such as but not limited to corkscrews, bottleopeners, glassware, or tableware.
11. All lighting shall meet the Outdoor Lighting Standards as outlined in Section 3.18 Outdoor Lighting Standards.
12. All signs shall meet the sign standards as outlined in Section 3.17 Signs.
13. Site landscaping requirements must be met as required in Section 3.12 Landscaping, Screening, Buffers and Greenbelts.
14. All parking shall meet the parking standards as outlined in Section 3.15 Off Street Parking and Loading. Parking must be screened from neighboring properties as required in Section 3.12 Landscaping, Screening, Buffers and Greenbelts.

K. Food Processing Plants and Fruit Receiving Stations. Although Food Processing Plants are a type of manufacturing whose intensity is generally incompatible with Suttons Bay Township's rural and residential character, they are permitted as a special use in the Agricultural District because of their importance to farming. Fruit Receiving Stations are an intensive use, but an integral part of fruit farming. Fruit Processing Plants and Fruit Receiving Stations shall meet the following requirements:

1. The operation is in compliance with the regulations of the Michigan Department of Agriculture and of the Michigan Department of Natural Resources.
2. The lot is at least ten (10) acres.
3. The food processing and food storage areas/structures shall occupy no more than twenty-five thousand (25,000) square feet.
4. The building(s) and processing areas shall be set back fifty (50) feet from all lot lines, and shall be landscaped or visually screened.

5. Retail sales are accessory uses, clearly secondary to food processing, and shall occupy no more than twenty-five (25) percent of the floor area devoted to food processing and storage or no more than two thousand (2,000) square feet of floor area, whichever is less.

L. Adult Foster Care Small Group Homes, provided:

1. There are no more than twelve (12) adults, including members of the resident family, receiving care.
2. Parking is provided off the road right-of-way for one (1) vehicle for every three (3) residents in foster care, for the use of visitors. This shall be in addition to parking for staff and/or family.
3. A loading/unloading area shall be provided so that those in foster care have easy access to any motor vehicle transporting them.
4. The driveway shall be kept plowed in winter, for easy access by emergency services.
5. A landscaped area, including a deck or patio, must be equipped with seats, where those in foster care can sit outside during warm weather.
6. The lot size must be large enough to accommodate the septic system and the equivalent reserve area required by the District Health Department.

M. Campgrounds: Because of Suttons Bay Township's proximity to scenic and natural features which attract resort and recreational facilities, it is the intent of this section to provide for campgrounds under certain conditions which protect the health and safety of the occupants of the campground as well as the public welfare, and which do not encroach visually or physically on adjacent land uses. Such campgrounds are intended to accommodate only tents, recreational vehicles, and other individual camping units designed primarily for temporary living or sleeping. These campgrounds shall be licensed by the State of Michigan.

A Special Use Permit shall be issued for the construction and occupancy of a campground within the Agricultural District PROVIDING the requirements of the initial paragraph under Section 4.4 Special Uses are met as well as all of the provisions of this section and other applicable provisions of the Suttons Bay Zoning Ordinance

1. Location: A campground must be located on a continuous parcel of land not less than twenty (20) acres in size.

The campground shall be located with direct access to a State Trunkline,



Primary Road or Secondary County Road. Access shall not be along land that is zoned Residential, or require movement of traffic through a residential use area, except if the residential district or residential use area is on a State Trunkline or Primary County Road.

2. Density: The total number of campground sites within the Campground shall not exceed five (5) campground sites per acre, with a maximum of two hundred (200) sites.
3. Open Space: Not less than thirty (30) percent of the total land area shall be designated as open space. The open space shall not include campground sites, roads, parking lots, or buildings. Open space may include setbacks, buffer zones, and recreation areas.
4. Setbacks: All campground sites, buildings, interior roads, and parking lots shall be located no closer than eighty (80) feet from a side or rear property line or one hundred (100) feet from the front property line or any road right-of-way.
5. No campground site shall be within a flood plain or closer than one hundred (100) feet from a lake or stream or fifty (50) feet from any wetland.

No campground site may be located closer than a three hundred (300) foot radius from an existing home, unless the homeowner provides written consent in a recordable instrument and such consent shall be appurtenant to the property, run with the land, and bind all future owners of the property.

6. Buffering / Landscaping: Campgrounds are subject to the requirements of Section 3.12 Landscaping, Screening, Buffers and Greenbelts. The Planning Commission may reduce or waive any buffering or screening requirement if existing vegetation is sufficient or if the campground is located in an area where compatibility with adjoining property is not an issue. A landscaping plan shall be submitted and shall include landscaping at the entrance, buffer zones, and accessory buildings and meet the requirements of Section 3.12 Landscaping, Screening, Buffers and Greenbelts.
7. Campground Sites: Campground sites shall not be less than one thousand two hundred (1,200) square feet in area, and have a width of not less than thirty (30) feet. Sites shall be designed so that recreational vehicles can be parked no closer than twenty (20) feet apart. No site shall be closer than fifty (50) feet from an accessory building.
8. Interior Roads: Interior roads shall be designed to accommodate the

vehicle types anticipated, and allow safe access by emergency vehicles. The following minimum standards shall apply:

One-way roads shall have a minimum cleared and stabilized width of sixteen (16) feet with a hard surface width of not less than twelve (12) feet.

Two-way roads shall have a minimum cleared and stabilized width of twenty-four (24) feet with a hard surface width of not less than sixteen (16) feet.

All pedestrian paths shall be shown on the site plan.

Hard surface may be gravel, asphalt, concrete, or other stable surface capable of supporting recreational vehicles and emergency vehicles. Road grades of ten (10) percent or greater shall be paved. No road grade shall exceed twelve (12) percent.

Impermeable areas (paved roads, cement surfaces) shall not exceed ten (10) percent of the campground.

9. Parking: One parking space shall be provided at each campground site. Parking shall meet the requirements of the state campground ordinance current at the time of application.
10. Accessory Buildings: Accessory buildings including management headquarters, office, caretakers quarters, maintenance buildings, storage buildings, toilets, showers, laundry facilities, recreation buildings, and other uses and structures customarily incidental to the operation of a campground are permitted as accessory uses PROVIDED that:
  - a. All accessory buildings shall be restricted in their use to occupants of the campground.
  - b. No alcoholic beverages may be sold or served.
  - c. Accessory buildings shall present no visible evidence of their commercial character that would attract customers other than occupants of the park.
11. Lighting: Exterior lighting shall meet all the requirements of Section 3.18 Outdoor Lighting Standards. Outdoor recreational activity lighting shall be subject to the provisions of Section 3.18.2.D.
12. Signs: Signs shall meet all of the requirements of Section 3.17 Signs.

13. Occupancy: Use of the campground is intended for temporary occupancy only. Occupancy of any campground site by an individual camping unit for more than two hundred forty (240) days in a calendar year is prohibited. All campground sites must be vacated when the campground is closed to the public. Records of campground site occupancy shall be made available to the Zoning Administrator upon request.

(Annotation: Section amended by Amendment 15-002, effective July 24, 2015)

14. Group Camping: Group camping is allowed if the overall density allows. Group camping includes campers that are not within one typical family unit, such as boy scouts or church group. For density calculation purposes, one campground site may be utilized by not more than four (4) group campers. One parking space shall be required for each four (4) group campers.

15. Storage of Recreational Vehicles: Storage of recreational vehicles shall be prohibited unless the storage is located in an approved screened location. Storage shall meet all of the requirements of Section 4.4.I Commercial storage of boats and vehicles.

16. Shared Lake Access: Any proposed shared frontage or shared use of lakes shall meet the requirements of Section 3.10 Multi-Family Lake and Shoreline Access.

17. Other requirements:

- a. The boundaries of the campground shall be clearly marked with a fence and/or small permanent signs spaced every two hundred (200) feet. These signs are intended as informational boundary markers for campers, not for advertisement purposes. These signs shall be no greater than forty (40) square inches.
- b. Any and all recreation facilities must be approved by the Planning Commission.

18. Prohibited Activities: No part of the campground may be used for the following purposes:

- a. Firearms shooting ranges.
- b. Motocross, off-road vehicle, or motorized go-cart use or tracks.
- c. Public performances, concerts, or amplified camp-wide gatherings for entertainment.
- d. Permanent structures at campsites, including, but not limited to,

decks, porches, or storage sheds.

e. Maintenance or servicing of recreational vehicles.

19. Approvals: Prior to preliminary site plan approval, the applicant shall have obtained preliminary approval in writing, from the following Agencies:

a. State of Michigan Agency(cies) that licenses campgrounds.

b. Leelanau County Health Department.

c. Leelanau County Drain Commissioner.

d. Leelanau County Road Commission and/or the Michigan Department of Transportation.

Applicant shall have final approvals, licenses, and/or permits prior to issuance of the Special Use Permit.

(Annotation: Section added by amendment 01-001 effective March 1, 2001)

N. Law Enforcement Facilities

Intent: To provide for the safe, secure, and appropriate siting of a Law Enforcement Facility within Suttons Bay Township. To maximize the Law Enforcement Facility's compatibility as a special use within the Agricultural District, the Law Enforcement Facility shall meet the standards and criteria of Article 20 Special Land Use Permits, and Article 19 Site Plan Review. The following additional requirements, conditions, and design controls have been established:

1. Location of Project: Facility shall be located on a major highway such as M-22 or M-204.

2. Long Term Plan of Development and Extent of Project - The applicant must provide a plan that includes:

a. A list of actual uses and activities that shall exist at the facility, including number of employees, maximum number and type of prisoners to be detained, total number of beds, and percentage of beds for lease to other government entities.

b. Floor plan of the facility that includes size and use of the non-jail section of the facility, and potential expansion of facility.

3. Minimum Lot Size – Twenty (20) acres

4. Lot Coverage – The maximum lot area covered by structures shall be twenty-five (25) percent as required by Section 3.6 Schedule of Area, Height, and Placement Regulations.
  
5. Setbacks -
  - a. Wetlands and Waterbodies - one hundred (100) feet.
  - b. Existing Residential Use - two hundred (200) feet.
  - c. Front Yard - one hundred (100) feet
  - d. Side Yard - one hundred (100) feet
  - e. Rear Yard - one hundred (100) feet
  
6. Maximum Structure Height: The maximum height of any structure shall conform to the requirements of the Agricultural District, however, recognizing that this height limitation may be inadequate for two story buildings, the Planning Commission has the discretion to allow a higher structure.
  
7. Lighting - To minimize the impact of intrusive artificial light and to help preserve the “night sky” in the surrounding area, lighting shall be designed in such a manner to:
  - a. Insure that direct or directly reflected light shall be confined to the Law Enforcement Facility site.
  - b. All outdoor light sources shall be high pressure sodium, or of equivalent photometrics.
  - c. Outdoor lighting fixtures shall be hooded and /or louvered to provide a glare free area beyond the property and right-of-way. The glare-free area shall extend to a height of eight (8) feet above the highest ground and the tallest object on the neighboring property and a public road right-of-way.
  - d. Outdoor lighting fixtures shall have one hundred (100) percent cut-off above the horizontal plane at the lowest part of the point of light source. That is, light rays may not be emitted by the lighting fixture at angles above the described horizontal plane, as may be certified by a photometric test. The intensity of the light at any angle above a cut-off of seventy-five (75) degrees shall be less than ten (10) percent of the peak candela for the lighting fixture. Reference Diagram A.

- e. All available photometric information and cross-sections of lighting fixtures shall be submitted to the township.

8. Parking –

- a. Parking shall be screened from public road right-of-ways and be separated and identified by use – visitor parking, employee parking, law enforcement personnel parking (includes police cars, ambulance, bus, etc.).
- b. The number of parking spaces provided shall be adequate to meet the normal anticipated demand of the facility, without parking in the fire lanes, aisles, or driveways. Parking in excess of normal demand is considered detrimental to the Agricultural District. An overflow parking area may be provided and may have a stabilized grass surface. Parking computations shall be submitted with the site plan.

9. Security – a written statement shall be provided that confirms a commitment to security, including a guarantee of adequate staffing at the facility.

10. Signs – Signage shall be constructed predominately of natural materials such as wood or stone, shall not exceed fifteen (15) square feet in area, and shall not be more than six (6) feet in height above entrance grade. Signage shall be low profile, low-intensity, and if illuminated, surface-illuminated in a downward direction and meet or exceed the requirements of Section 3.17 Signs.

11. Communications Tower – A Communications Tower should be of sufficient height to communicate with the County Emergency Communications System, while meeting all other provisions of Section 15.2 Wireless Communication Services.

12. Landscaping and Buffering – A landscaping and buffering plan shall be provided that meets or exceeds the requirements of Section 3.12 Landscaping, Screening, Buffers and Greenbelts.

13. Environmental Concerns

- a. Hazardous Materials – Identification and location shall be provided regarding any hazardous materials to be stored on site, per the Township Environmental Checklist. Storage of such hazardous materials shall meet applicable Federal, state, and local standards. Copies of applications and required permits shall be submitted to

the township.

- b. Environmental Protection – Copies of required MDEQ permits and applications for permits shall be submitted to the township. These include, but are not limited to, wetland, inland lakes and streams, and shoreline protection permits. These permits shall be obtained prior to final approval of the Special Use Permit. If final approval is not timely, written assurance of final approval must be provided. No direct runoff from the facility or from construction of the facility shall be permitted into the stream. Replacement of culverts shall be with a three-sided box or arch culvert.
- c. Permits - Copies of required permits and applications for permits shall be submitted to the Township. These include, but are not limited to, well and septic, stormwater control, and soil erosion control permits. These permits shall be obtained prior to final approval of the Special Use Permit. If final approval is not timely, written assurance of final approval must be provided.

- 14. Traffic – A traffic impact statement prepared by a traffic professional shall be provided that includes an analysis of vehicle type using the facility (police, medical, employees, visitors), peak hour traffic, and projected noise impact from increased traffic. Copies of Michigan Department of Transportation requirements and/or studies shall be submitted to the Township.

(Annotation: Subsection added by Amendment 01-003 effective October 25, 2001)

O. Special Events (Annotation: Subsection added by Amendment 16-001 effective May 27, 2016)

It is the principle intent of this section to continue the support of active agriculture in Suttons Bay Township. In addition, the Planning Commission may grant a special land use permit for special events to property owners to diversify the uses of their land so long as the community's scenic and rural character is preserved. Any special event for over sixty (60) people requires a special land use permit for special events.

The Planning Commission will review applications for special events on a case by case basis, and may impose additional conditions based upon site topography, layout, existing vegetation, and the potential impact on the surrounding properties as well as any other condition deemed important by the Planning Commission. The provisions of Article 19 Site Plan Review and Article 20 Special Land Use Permits must be met.

Special events are secondary to the primary use of the property. The primary goal for zoning in this district is to encourage and maintain agriculture as part of a balanced and diversified economy. When permitted, special events should have

minimal impact on other properties and its residents, and on the ongoing active agriculture practices in the district.

Special land use permits run with the land and are binding on the land owner, their successors, heirs, and assigns. If at any time during the existence of the special land use permit(s) permitted, the lot(s) and/or structures are used contrary to the conditions and provisions of the permit, said use shall be deemed a zoning violation and the permit shall be considered revoked as per Section 20.19 Binding Effect.

These activities may be permitted provided:

1. The number of special events of more than sixty (60) people shall be determined by the Planning Commission at Site Plan Review and shall not exceed four (4) per month during the months of May through October, and not more than three (3) during each of the other months.
2. Parcel requirements:
  - a. The parcel must be a Commercial Farm of at least twenty-five (25) acres with a minimum lot width of at least three hundred twenty five (325) feet; or  
(Annotation: Section amended by Amendment 17-001, effective April 29, 2017)
  - b. A parcel with an approved Special Land Use Permit for a Winery or Cidery per Section 4.4.J.  
(Annotation: Section amended by Amendment 16-003, effective February 24, 2017)
3. Buildings and setbacks:  
(Annotation: Section amended by Amendment 17-001, effective April 29, 2017)
  - a. Special events taking place in a structure must be within a building built before May 27, 2016 (effective date of amendment) or in a permitted winery or cidery as per Section 4.4.O.2.b.
  - b. All buildings, structures, and tents, open to the public shall be set back at least one hundred (100) feet from any lot line.
  - c. Preexisting structures built prior to the date of the adoption of this Ordinance (1993) that are located within the one hundred (100) foot setback may be approved for use of special events, subject to site plan review by the Planning Commission.
  - d. The Planning Commission may require greater setbacks if necessary to buffer adjacent properties as determined during the Special Land use permit process.



4. All activities must be completed by 11:00 PM. Any music or entertainment provided for the event must be for background purposes only, not a featured segment of the activity, and completed by 9:00 PM on Sundays through Thursday and 10:00 PM on Friday and Saturday. Sound amplifiers are permitted only as determined in Site Plan review.
5. Parking areas shall be off-road, forty (40) feet from all lot lines. There shall be no parking on county or state roads. Parking may be located on non-paved areas. All parking shall meet the parking standards as outlined in Section 3.15 Off Street Parking and Loading. Parking must be screened from neighboring properties as required in Section 3.12 Landscaping, Screening, Buffers and Greenbelts. Emergency access to and within the site shall be maintained at all times throughout the event.
6. Entrance from the public road must be approved by the County Road Commission or Michigan Department of Transportation with concurrence from the Suttons Bay Township Planning Commission as part of the site plan review process.
7. The operator must have a written statement from the County Health Department indicating the maximum number of persons that can be accommodated with existing toilet facilities. Additional portable toilets must be provided for any guests exceeding the aforementioned number.
8. The applicant shall maintain a log of the activities including dates, group identity, times and number of guests. This list must be signed and certified by the permit holder as to its accuracy and submitted to Suttons Bay Township annually, no later than March 1 for the previous calendar year.
9. Equipment and materials related to the special events must be stored within a structure or removed from the site when not in use.
10. All lighting shall meet the Outdoor Lighting Standards as outlined in Section 3.18 Outdoor Lighting Standards.
11. All signs shall meet the sign standards as outlined in Section 3.17 Signs.
12. Site landscaping requirements must be met as required in Section 3.12 Landscaping, Screening, Buffers and Greenbelts.
13. A Site Plan must be approved by the Planning Commission at a Public Hearing. The following information must be provided in addition to information required for Minor Project Site Plan Review as per Section 19.6.

- a. Existing and proposed structures, including tents, with maximum capacity of each building where guests have access as established by the Fire Marshall.
  - b. The maximum number of people attending a single event.
  - c. Location of temporary toilet facilities, which may be required.
- P. Other uses not included here or elsewhere in the Ordinance must first be added as a special use appropriate to Suttons Bay Township by amending the Ordinance, before being considered in the particular as a project subject to a special land use permit.
- (Annotation: Subsection A. Cluster Housing removed and moved to Section 4.3 Uses with Conditions and Section 4.4 Special Uses renumbered by Amendment #106 effective date October 27, 2006)

#### **SECTION 4.5 PERMITTED ACCESSORY USES**

- A. Accessory Structures normally associated with Single Family Dwellings, such as a private garage, shed for yard tools, playhouse, boat house, woodshed, sauna, and the like.
- B. A small identification sign.
- C. Swimming pools.
- D. Parking of automobiles, boats, and other vehicles, licensed by the owner of the property or by a resident for his own use.
- E. Pens and enclosures for household pets. (See Section 4.3.K keeping dogs.
- F. Accessory Uses or Structures, clearly incidental to the operation of an existing farm, including barns, silos, sheds, equipment storage and similar structures customarily incidental to the permitted principal use and structures. Open wire fences to contain stock or to exclude wild game from crops are allowed without regard to setback requirements except that such fences shall not be erected in such manner as to interfere with traffic visibility.
- G. Activities typically associated with the actions and functions of individual members participating in organizations such as 4-H, Future Farmers of America, and the like.

#### **SECTION 4.6 SETBACKS AND SETBACK AREAS**

Unless otherwise noted, the front setback shall be forty (40) feet. The side setbacks shall be thirty-five (35) feet. The rear setback shall be thirty-five (35) feet. Shoreline setback shall be fifty (50) feet. No dwelling, nor part thereof, including an attached or detached

garage, shall be permitted in the side setback areas; however, other structures are permitted in the side setback areas if they are at least ten (10) feet from the side lot lines. No obstruction shall be placed within ten (10) feet of any lot line.

(Annotation: Rear setback amended from 50 feet to 35 feet by Amendment 02-002, effective date July 4, 2002)

(Annotation: Section changed by Township Ordinance No. 4 of 2011, effective June 24, 2011 – added “detached garage”)

(Annotation: Section amended by Amendment 14-002 effective November 28, 2014: add phrase “unless otherwise noted”)

## **ARTICLE 5 RESIDENTIAL DISTRICT**

### **SECTION 5.1 INTENT AND PURPOSE**

It is the purpose of this District to encourage the development of residential properties of a low-density, where natural resource and environmental characteristics, such as hillsides, scenic areas, wetlands, and shore lands tend to make more intensive types of development destructive to environmental values. The intent is to provide for an environment of predominantly low-density, one-family detached dwellings that will harmonize with the natural resource capabilities of the District.

### **SECTION 5.2 USES PERMITTED BY RIGHT**

- A. One-Family Detached or Semi-Detached Dwellings.
- B. Churches, Temples.
- C. Schools of an academic nature.
- D. Recreation Facilities of non-commercial nature.
- E. Adult Foster Care Family Care Homes. They shall be licensed by the State of Michigan Department of Social Services.
- F. Accessory Uses or Structures customarily accessory, secondary, and clearly incidental to the principal uses listed above, provided that there is a principal permitted use already existing on the parcel or being constructed simultaneously.

(Annotation: Section changed by Township Ordinance No. 2 of 2011, effective June 24, 2011)  
(Annotation: Section amended by Amendment 15-004 effective February 26, 2016)

### **SECTION 5.3 USES PERMITTED WITH CONDITIONS**

The following uses of land and structures shall be permitted, subject to the conditions hereinafter imposed for each use.

- A. Home Occupation, provided they meet the requirements of Article III General Provisions, Section 14.1 Home Occupations.
- B. Guest House, subject to the following restrictions:
  - 1. County Health Department approval for connection to the existing septic system, or County Health Department permit for a new septic system.
  - 2. Lot size, forty-five thousand (45,000) square feet minimum for combination of main residence and guest house.
  - 3. Set-Backs same as described for the Residential District.

4. In the interest of reduction of fire hazards, a guest house must be located a minimum of twenty (20) feet from any other building.
  5. Determination for approval to be made by the Planning Commission.
- C. Multi-family Dwellings having not less than one (1) acre of land area per family dwelling unit.
- D. Mobile Homes, subject to the following restrictions:
1. Meets the definition of a Single Family Dwelling.
  2. Is attached to a permanent foundation.
  3. Has County Health Department approval for the well and septic system.
  4. No mobile home may be attached to or become a part of an existing structure used or intended to be used for dwelling purposes.
- E. Bed and Breakfasts, provided they meet the requirements of Article III General Provisions, Section 14.3 Bed and Breakfasts.
- F. Open Space Residential Developments, sometimes referred to as Cluster Housing, provided that the requirements of Article 16 Open Space Residential Land Development, are met.  
(Annotation: Added by amendment 106 effective on October 27, 2006)  
(Annotation: Section amended by Amendment 15-004 effective February 26, 2016)

**SECTION 5.4 SPECIAL USES**

- A. Home Businesses, provided they meet the requirements of Section 14.2 Home Businesses.
- B. Multi-family and/or Duplex Housing within Village Growth Management Area as shown in the *Suttons Bay Community Joint Master Plan* (August 2011, p. 56; p. 42), provided:
1. Lot width required is a minimum of two hundred (200) feet on public or approved private road.
  2. Minimum lot size is one (1) acre in the Residential District.
    - a. Maximum density of single-story buildings is four (4) dwelling units per acre.
    - b. Maximum density of two-story buildings is eight (8) dwelling units per acre.

3. Setbacks:
  - a. Front setback shall be forty (40) feet.
  - b. Side setbacks shall be fifteen (15) feet.
  - c. Rear setback shall be thirty (30) feet.
4. Minimum square footage per dwelling unit is six hundred (600) square feet.
5. Maximum lot coverage shall not exceed twenty-five (25) percent.
6. Applicant must have Health Department evaluation or permit to insure adequate well and septic capabilities prior to applying for a Special Land Use Permit. (Annotation: Section added by Amendment 14-002 effective November 28, 2014)

C. Adult Foster Care Small Group Homes, provided:

1. There are no more than twelve (12) adults, including members of the resident family, receiving care.
2. Parking is provided off the road right-of-way for one (1) vehicle for every three (3) residents in foster care, for the use of visitors. This shall be in addition to parking for staff and/or family.
3. A loading/unloading area shall be provided so that those in foster care have easy access to any motor vehicle transporting them.
4. The driveway should be kept plowed in winter, for easy access by emergency services.
5. A landscaped area, including a deck or patio, must be equipped with seats, where those in foster care can sit outside during warm weather.
6. The lot size must be large enough to accommodate the septic system and the equivalent reserve area required by the District Health Department.

**SECTION 5.5 AREA, HEIGHT AND PLACEMENT REGULATIONS**

Unless otherwise noted, all uses allowed in this district shall be subject to the provisions of Section 3.6 Schedule of Area, Height and Placement Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

(Annotation: Section amended by Amendment 14-002 effective November 28, 2014: phrase "unless otherwise noted" added)

**Article 6**  
**Open**

**Article 7**  
**Open**



## ARTICLE 8 COMMERCIAL DISTRICT

### SECTION 8.1 INTENT AND PURPOSE

This District is intended to accommodate those retail and business activities that serve the whole community.

### SECTION 8.2 USES PERMITTED BY RIGHT

- A. One-Family detached Dwellings, Hotels, Motels, Bed and Breakfast Inns, Rooming Houses, Rental Cottages, and Lodges, with Accessory Buildings designed and used primarily to serve the tenants thereof.
- B. Churches, Temples, Schools of an academic nature, Hospitals, Health Clinics, Institutions, Nursing Homes, and Funeral Homes which shall have sufficient off-street parking so as to avoid hazard to traffic, pedestrians, and residents of the area.
- C. Retail Stores
- D. Business and Professional Offices.
- E. Personal and Business Services.
- F. Home Appliance Repair, Equipment Rentals, and Laundries.
- G. Buildings or uses customarily accessory and clearly incidental to the principal permitted uses above.

### SECTION 8.3 USES PERMITTED WITH CONDITIONS

- A. Gasoline Service Stations and Commercial Garages: Under the following condition:
  - 1. Automobile, truck, and trailer repair and sale of automotive accessories shall be permitted only as an accessory use to an automobile or truck service station and shall be conducted within a wholly enclosed building.
- B. Used Car Lots: Under the following conditions:
  - 1. The space used, therefore, is paved and adequately maintained so as to provide a durable, smooth, and dustless surface.
  - 2. The space is so graded that the pattern and volume of surface drainage of water onto adjoining properties is unchanged.

C. Restaurant: Including lunch counters, outdoor dining areas, dairy bars, and other establishments which provide food for consumption on the premises, provided that such establishments shall not be drive-in facilities.

D. Mobile Homes, subject to the following restrictions:

1. Meets the definition of a Single Family Dwelling.
2. Is attached to a permanent foundation.
3. Has County Health Dept. approval for the well and septic system.
4. No mobile home may be attached to or become a part of an existing structure used or intended to be used for dwelling purposes.

## **SECTION 8.4 ADULT AND SEXUALLY ORIENTED BUSINESSES**

### **SECTION 8.4.1 INTRODUCTION**

Adult and sexually-oriented businesses by their very nature are recognized as having serious, objectionable operational characteristics which are detrimental to the greater community particularly when several such businesses are concentrated geographically. Special regulation of these uses is necessary in order to insure that these uses are not detrimental to the community and will not contribute to the blighting or degrading of the surrounding area.

For purposes of this section, adult and sexually oriented businesses include but are not limited to: adult bookstores, adult cabarets, adult motion picture theaters, adult drive-ins, and adult film stores.

### **SECTION 8.4.2 INTENT**

It is the intent of this section to prevent a concentration of this type of business within any one area, to prevent the deterioration or blighting of nearby residential or agricultural districts, and to protect the integrity of churches, schools, parks and playgrounds, and other areas where juveniles congregate in Suttons Bay Township.

### **SECTION 8.4.3 GENERAL REQUIREMENTS**

- A. Any adult and sexually-oriented business shall be treated as a special land use subject to the requirements of Article 20 Special Land Use Permits. All adult and sexually-oriented businesses are subject to the requirements of Article 19 Site Plan Review and are to be considered Major Projects for purposes of site plan review.
- B. Location: Adult and sexually-oriented businesses shall be allowed only within the Commercial District of Suttons Bay Township. No person shall cause or permit the operation of any adult or sexually-oriented business within the following minimum distances from the existing specified uses:

1. Another adult and sexually-oriented business-two thousand (2,000) feet.
2. Church, park, playground, or school-one thousand five hundred (1,500) feet.
3. Agricultural District-two hundred (200) feet.
4. Residential District-five hundred (500) feet.

The required minimum distances shall be measured by extending a straight line from the property line of the adult and sexually-oriented business to the nearest property line occupied by any other use or to the property line of any church, park, playground, school, or adjacent Agricultural, Residential or Recreational district.

C. Signs: All adult and sexually-oriented businesses are subject to the requirements of Section 3.17 Signs.

It shall be unlawful to erect, construct, or maintain any sign for adult or sexually-oriented business other than one primary sign and one secondary sign as follows:

1. The primary sign shall have no more than two (2) display surfaces. Each surface shall:
  - a. not contain any flashing lights, moving parts or be constructed to simulate movement.
  - b. be a flat plane, rectangular in shape.
  - c. not exceed fifteen (15) square feet in area.
  - d. contain no photographs, silhouettes, drawings or pictorial representations of any manner.
  - e. contain letters of a solid color, and each letter shall be the same print-type, size and color. The background of each letter on the display surface shall be of a uniform, solid color.
2. Secondary signs shall have only one (1) display surface. The display surface shall:
  - a. not contain any flashing lights, moving parts or be constructed to simulate movement.
  - b. be a flat plane, rectangular in shape.

- c. not exceed fifteen (15) square feet in area.
  - d. not exceed eight (8) feet in height or six (6) feet in width.
  - e. be affixed or attached to a door or wall of the establishment.
  - f. contain no photographs, silhouettes, drawings pictorial representations of any manner.
  - g. contain letters of a solid color, and each letter shall be the same print-type, size and color. The background of each letter on the display surface shall be of a uniform solid color.
- D. Building Exterior: Buildings and structures shall not be painted or surfaced with 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 (72) hours of notification of the owner or person in charge of the premises.
- E. Lighting: All adult and sexually-oriented businesses shall be subject to the requirements of Section 3.18 Outdoor Lighting Standards. In addition the following shall apply:
- 1. Outdoor, low-intensity lighting shall be installed that illuminates the entire parking and vehicular use area.
  - 2. Lighting fixtures shall be placed no higher than twenty-five (25) feet or lower than eight (8) feet on fixed light standards.
  - 3. Lighting shall be adjusted to illuminate the interiors of parked vehicles.
  - 4. Lighting shall be adjusted and/or shielded to direct all the illumination over the parking and vehicular use area, and to prevent unwanted illumination of surrounding properties.
- F. Other Regulations, Permits or Licenses: The provisions of this Section do not waive or modify any other provision of this Ordinance.
- G. Variances: No variances shall be granted from the provisions of this section. The provisions of this section shall not be subject to appeal to the Suttons Bay Township Zoning Board of Appeals.

## **SECTION 8.5 BUFFER ZONE**

Deleted in its entirety by Amendment 09-001 effective August 28, 2009. See Section 12.6

## **SECTION 8.6 ACCESSORY BUILDINGS**

Accessory Buildings in the Commercial District shall be subject to the same provisions of location, spacing and occupancy as the primary buildings permitted in the District and their area shall be computed as part of the maximum total area of land occupancy permitted.

## **SECTION 8.7 OFF STREET PARKING, AND DELIVERY ACCESS**

Refer to Section 3.15.3 Landscaping and Buffering for minimum standards for parking. Access shall be provided for the unloading of goods, supplies, or merchandise from truck to business establishment without obstructing the public right-of-way.

## **SECTION 8.8 YARD STORAGE**

Whenever a business establishment finds it necessary to store part of its goods, supplies, merchandise or returnable containers outside the confines of the building structure, it shall provide an enclosure by solid fence or its equivalent not less than six (6) feet high around such storage area, said fence to be made and maintained in a manner that is consistent with the intent and purpose of this Ordinance and does not adversely affect the adjacent property. In approving or disapproving such fence the Zoning Administrator shall apply the following standards:

- A. The fence will be constructed of such material and of such design as to reasonably prevent trespassers from entering the premises by scaling such fence.
- B. The fence will be solid construction or of material so as to obstruct the view of the premises enclosed.
- C. The fence shall be maintained and/or painted, but shall not be used as a sign or signboard in any way.
- D. Materials stored shall not obtrude above the top of the fence.

## **SECTION 8.9 AREA AND BULK REQUIREMENTS**

All uses allowed in this district shall be subject to the provisions of Section 3.6 Schedule of Area, Height, and Placement Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

**Article 9**  
**Open**

## **ARTICLE 10 INDUSTRIAL DISTRICT**

### **SECTION 10.1 INTENT AND PURPOSE**

This district is intended to accommodate those industrial uses, storage, and related activities that generate a minimum of noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, or any other potentially harmful or nuisance characteristics. It is designed to accommodate wholesale, warehouse, and industrial activities whose operational and physical characteristics do not detrimentally affect any of the surrounding districts. The Industrial District permits by special use the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared material, and the wholesale and/or retail sale of those products.

### **SECTION 10.2 SPECIAL USES**

- A. Any production processing, testing, repair, storage, and distribution of materials, foods, foodstuffs, and other semi-finished or finished products from previously prepared material.
- B. Buildings or uses customarily accessory and clearly incidental to the principal permitted uses above.
- C. Both wholesale and retail sales of semi-finished or finished products, to be stored on site, that are clearly associated and accessory to the principal permitted uses as described in Section 10.2.A Special Uses.
- D. Service industries such as heating, plumbing, and electrical wiring.
- E. Contracting operations, including equipment storage and office facilities.
- F. An Industrial use may be changed to another or different Industrial use by obtaining a new special land use permit under Article 20 Special Land Use Permits.

(Annotation: Sections 7.1 and 7.2 changed by Amendment 01-006 effective September 27, 2001)

### **SECTION 10.3 AREA AND BULK REQUIREMENTS**

All uses permitted in this district shall be subject to the provisions of Section 3.6 Schedule of Area, Height and Placement Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard set back requirements.

### **SECTION 10.4 PARKING AND OFF-STREET LOADING REQUIREMENTS**

- A. Refer to Section 3.15.3 Landscaping and Buffering for minimum standards for parking.

B. Off-street loading spaces shall be provided for all industrial buildings.

1. Subject to the limitations in paragraph 2 (below) following, a loading area may occupy part of any required side or rear yard, except, the side yard along a street, in the case of a corner lot, shall not be occupied by such space. In no event shall any part of a required front yard be occupied by such loading space.
2. Any loading space shall not be closer than fifty (50) feet from any lot located in a residential district or residential use in any other district unless wholly within a completely enclosed building or unless enclosed on all sides by a wall, screen or dense planting not less than six (6) feet in height.
3. All off-street loading facilities that make it necessary or possible to back directly into a public road are prohibited. All maneuvering of trucks or other vehicles shall take place on the site.
4. Required loading spaces shall not be included in the count of required off-street parking spaces.



## ARTICLE 11

### WASTE MANAGEMENT

(Annotation: Article amended in its entirety by Amendment 15-001, effective May 1, 2015)

#### SECTION 11.1 INTENT

In recognition of the growing demand for waste management services and facilities, it is the intent of this district to establish land use standards for these facilities and services; to mitigate the negative impacts for these land uses; to assure consistency with the current adopted *Leelanau County Solid Waste Management Plan*; and to be consistent with the current *Leelanau County General Plan*. It is also the intent of the Waste Management District to permit uses normally allowed within the Industrial District.

#### SECTION 11.2 SPECIAL USES

All uses allowed in this district are Special Uses and shall be subject to the requirements of Article 20 Special Land Use Permits, Article 19 Site Plan Review, and Section 3.6 Schedule of Area, Height, and Placement Regulations.

##### A. Waste Management

1. Collection centers
2. Community composting facilities
3. Collection and short term storage of household hazardous waste
4. Recycling drop-off facilities
5. Resource recovery facilities
6. Sewage disposal facilities
7. Solid waste hauling services
8. Solid waste processing plants
9. Solid waste transfer facilities

##### B. Industrial

All uses allowed in the Industrial Zoning District, Article 10.

##### C. Public Works Facilities

## **SECTION 11.3 REGULATIONS AND STANDARDS**

- A. Prior to granting final approval of the submitted site plan, the applicant shall:
1. Demonstrate compliance with the applicable sections of Public Act 64 of 1979, as amended, if any.
  2. Demonstrate compliance with the applicable sections of Public Act 98 of 1913, as amended, if any.
  3. Demonstrate compliance with the applicable sections of Public Act 233 of 1955, as amended, if any.
  4. Demonstrate compliance with the applicable sections of Public Act 641 of 1978, as amended, if any.
  5. Receive recommended approval of the site plan from the Leelanau County Solid Waste Management Board and the Designated Solid Waste Planning Agency.
- B. The following regulations shall apply to uses allowed in this district:
1. Parcel area
    - a. For recycling drop-off facilities without processing capabilities, no building or structure shall be established on any parcel less than five thousand (5000) square feet.
    - b. For all uses except sewage disposal facilities, solid waste processing plants, and solid waste transfer facilities, no building or structure shall be established on any parcel less than two (2) acres.
    - c. For sewage disposal facilities, solid waste processing plants, and solid waste transfer facilities, no building or structure shall be established on any parcel less than ten (10) acres.
    - d. The measured parcel area, as used here, shall not include:
      - i. Sand dune areas, as defined by the DNR.
      - ii. Beaches.
      - iii. Wetland areas, as defined by the DNR.
      - iv. High risk erosion areas.
      - v. Flood plains.

### 2. Parcel Width

- a. All uses except sewage disposal facilities, solid waste processing plants, and solid waste transfer facilities:
  - i. The minimum parcel width shall be one hundred fifty (150) feet.
  - ii. The parcel shall front on a public road.
- b. Sewage disposal facilities, solid waste processing plants, and solid waste transfer facilities:
  - i. The minimum parcel width shall be five hundred (500)feet.
  - ii. The parcel shall front on a public road.

3. Minimum Setback Requirements:

- a. Front yard setback: Not less than fifty (50) feet from the front property line.
- b. Side yard setback: Not less than twenty-five (25) feet from the side property lines.
- c. Rear yard setback: Not less than twenty-five (25) feet from the rear property line.
- d. Water's edge setback:
  - i. All uses except sewage disposal facilities, solid waste processing plants, and solid waste transfer facilities - Not less than five hundred (500) feet from the water's edge.
  - ii. Sewage disposal facilities, solid waste processing plants, and solid waste transfer facilities - Not less than one thousand feet (1000) feet from the water's edge.

4. Parking Requirements. Off-street parking and loading requirements for this district shall be governed by Section 3.15 Off Street Parking and Loading.

5. Other Requirements. Uses bordering the side lot line of any non-commercial or non-industrial zoning district shall provide and maintain a transition feature of one or more of the following, as may be approved by the Planning Commission to fit each situation.

- a. a grassed lawn area twenty-five (25) feet in width, or

- b. a four (4) foot, or higher, berm with sides graded to three (3) feet horizontal and one (1) foot vertical or flatter and planted as a mowed lawn or as a garden, or
- c. a decorative four (4) foot, or higher, screening wall or planted greenbelt which affords an effective all season screen, or
- d. a proportionately adjusted combination of the above.

## ARTICLE 12 OVERLAY ZONES

### SECTION 12.1 INTENT

The intent of Overlay Zones is to encourage development that is consistent with the overall growth management goals and objectives of the Suttons Bay Township Zone Plan and which supports the public health, safety and welfare of residents and visitors. The Overlay Zone allows greater flexibility in regulating land use than that which can be attained through strict application of the restrictions and allowances of Zoning Districts.

### SECTION 12.2 APPLICATION

An Overlay Zone is a separate zone placed over all or part of existing zoning districts that adds new regulations to those of the underlying districts. The Overlay Zone may place greater restrictions on use of the underlying district or it may allow uses not otherwise allowed in the underlying district. Each Overlay Zone shall be governed by criteria which set the conditions for the Overlay Zone and shall be mapped. Overlay Zone Maps are part of the Zoning Map for this ordinance.

### SECTION 12.3 SPECIAL USE OVERLAY: CHURCHES AND DAY CARE CENTERS

- A. Intent: The need and desire for churches and day care centers in Suttons Bay Township inevitably follows the creation and expansion of population centers. These uses have a greater than usual impact on the environment, the community and/or neighboring property holders. The functional relationship between these uses and residential use in the township is direct and the physical relationship should be close. It is the intent of this Special Use Overlay to accommodate the need for land area for Churches and Day Care Centers while maintaining a direct relationship with residential uses. Further this accommodation will be done in a manner that does not cause undue development pressure on agricultural or open space lands. Churches and day care centers are not normally allowed in the underlying districts because they are usually incompatible with the primary uses therein. It is intended that the restrictions placed on these uses by the overlay district shall encourage development which does not encroach visually or physically on adjacent land uses. Land area and frontage requirements, setbacks and the parking location requirements are designed to preserve or enhance the rural characteristics of the township, provide adequate space for development and protect the adjacent lands from impacts of development which would not otherwise be allowed in the district.
- B. Overlay Criteria: Within this overlay, defined uses are limited to areas of primarily residential or commercial use. One or more of the following criteria shall be used for developing this overlay.

1. The land area has been withdrawn from agricultural uses and is actively being marketed for residential development.
2. The land area is presently developed with existing residences and with pockets of land marginally used for agricultural purposes or altogether abandoned from agricultural use.
3. The land is adjacent to Commercial Districts or Residential Districts and is only marginally used for agricultural purposes or altogether abandoned from agricultural use.

Lands which meet one or more of the above criteria must be judged further on whether or not the uses proposed for the overlay would conflict with the intent of the ordinance as stated in the Zone Plan and throughout the ordinance. Conflicts with the intent of the ordinance would disallow inclusion in the overlay.

Interim note: other developed areas will be eligible for inclusion in this overlay zone when the Planning Commission develops more detailed Land Use Planning.

C. Special Uses Allowed Within the Overlay Zone:

1. Churches, provided:
  - a. The lot area is at least five (5) acres.
  - b. The area within the lot under active use shall be located a minimum of fifty (50) feet from any agricultural cropland with an active spraying schedule.
  - c. The minimum lot width shall be two hundred fifty (250) feet.
  - d. The minimum front, side and rear setbacks of the principal church structure shall be sixty (60) feet.
  - e. The site shall be served by a single road access unless required otherwise by the Fire Department for fire access and shall be approved by the Leelanau County Road Commission.
  - f. All parking areas shall be behind the actual front setback of the principal church structure and not closer to any adjacent property line than forty (40) feet.
  - g. A buffer shall be required by the Commission to screen the bulk of activity on the site from the view or hearing of adjacent residential users.

2. Day Care Centers, provided:

- a. The lot area is at least five (5) acres.
- b. The area within the lot under active use shall be located a minimum of fifty (50) feet from any agricultural cropland with an active spraying schedule.
- c. The minimum lot width shall be two hundred fifty (250) feet.
- d. The minimum front, side and rear setbacks of the principal day care center structure shall be sixty (60) feet.
- e. The site shall be served by a single road access unless required otherwise by the Fire Department for fire access and shall be approved by the Leelanau County Road Commission.
- f. All drop-off areas shall directly access the primary entrance to the day care center building.
- g. All parking areas shall be behind the actual front setback of the principal day care center structure and not closer to any adjacent property line than forty (40) feet.
- h. The minimum number of parking spaces shall be one (1) space for each employee plus one (1) space for each five (5) children enrolled or one (1) space for each ten (10) children enrolled if adequate drop-off facilities are provided.
- i. All parking areas shall be separated from areas actively used by children under care by a permanent fence or wall at least forty-two (42) inches high to prevent children from running into the traffic stream.
- j. A buffer shall be required by the Commission to screen the bulk of activity on the site from the view or hearing of adjacent residential users.

#### D. Permitted Accessory Uses

- 1. A small identification sign no larger than six (6) square feet.
- 2. Structures clearly incidental to the operation of the permitted special uses.
- 3. Activities typically associated with the functioning of the permitted special uses.

**Article 13**  
**Open**



## **ARTICLE 14 HOME BUSINESS USES**

### **SECTION 14.1 HOME OCCUPATIONS**

#### **SECTION 14.1.1 INTRODUCTION**

Home Occupations are traditional in Suttons Bay Township. With the increasing sophistication and availability of microcomputers and telecommunications, work done in the home will become a significant and growing part of the economy.

#### **SECTION 14.1.2 INTENT**

It is the intent of this section to accommodate both old and new styles of Home Occupation, which are clearly subordinate and incidental by their very nature to the use of a single family dwelling unit for residential purposes, and which are clearly compatible with the character of a residential neighborhood. This permits the use of business mailing addresses and business telephone numbers in residences.

#### **SECTION 14.1.3 CONDITIONS**

Home Occupations shall be permitted, subject to the following conditions:

- A. All Home Occupations shall be so conducted as not to be noticeable from the exterior of the house.
- B. No signs accessory to the Home Occupation shall be permitted.
- C. Traffic and delivery of goods created by the Home Occupation shall not exceed that normally created by residential uses.
- D. No employees other than residents of the Dwelling Unit shall be employed in the Home Occupation.
- E. No noise, odors, or illumination created by the Home Occupation shall be noticeable outside the Dwelling.

### **SECTION 14.2 HOME BUSINESSES**

#### **SECTION 14.2.1 INTRODUCTION**

Some Home Occupations are by their very nature more noticeable and more intrusive in a residential neighborhood. Such occupations also have a way of intensifying and growing until what was initially a use subordinate and incidental to the residential use takes on the character of a principal commercial or manufacturing use.

#### **SECTION 14.2.2 INTENT**

It is the intent of this section to strike a balance between residential uses and such home-based business uses, which is fair both to the home entrepreneur and to the neighboring home owners.

### **SECTION 14.2.3      CONDITIONS**

A Home Business is subject to review by the Suttons Bay Township Planning Commission following a public hearing. Due notice shall be given. See Section 23.3.3 Notices.

Home Businesses shall be permitted, if the Commission determines that the following conditions have been met:

- A. The use is compatible with the overall residential character of the District and of the immediate neighborhood.
- B. The business is incidental and subordinate to the residential use, and shall occupy an area of the dwelling and of any accessory buildings equivalent to no more than fifty (50) percent of the usable floor area of the dwelling unit.
- C. The business is carried on entirely within the dwelling or its accessory buildings; this includes the storage or display of materials or products of any aspects of the Home Business.
- D. The residential appearance of the premises is preserved. No buildings or construction features, or equipment or machinery are required, which are not customarily found in residential areas.
- E. No retail or other sales shall be permitted unless they are clearly incidental and directly related to the conduct of the Home Business.
- F. There is no more than one (1) employee other than members of the resident family.
- G. Only off-street parking facilities normal to residential use and located on the premises may be used.
- H. Only one (1) vehicle used in connection with the Home Business shall be stopped or stored on the lot. Provided, however, that if the vehicle be a truck such as, but not limited to, a dump truck, a fuel oil delivery truck, or a wrecker, it shall not be parked overnight closer to any lot line than thirty-five (35) feet.
- I. One (1) identifying sign is permitted not more than four (4) square feet in area, attached to the dwelling or to an accessory building, without illumination, and of a character in keeping with the neighborhood.
- J. No Home Business shall prove offensive by reason of noise, odor, dust, fumes, smoke, glare, or comparable nuisances.
- K. The applicant shall provide a description of the business activities planned and a site plan clearly showing where the business is to be conducted, including storage areas and parking areas. See Section 23.4.4 Land Use Permits Conditional upon a Hearing.

- L. Any such home business may be subject to annual inspection by the Zoning Administrator, and may be terminated as a Home Business by order of the Administrator whenever the home business fails to comply with the Ordinance.

## **SECTION 14.3 BED AND BREAKFASTS**

### **SECTION 14.3.1 INTENT**

It is the Township's intention that Bed and Breakfasts will help its residents maintain single family homes, which blend in with the Township's rural residential character, and offer the traveler an alternative to conventional accommodations.

### **SECTION 14.3.2 CONDITIONS**

Bed and Breakfast establishments shall comply with the following conditions:

- A. The owner shall be in residence.
- B. No sign shall indicate a Bed and Breakfast. Only a sign, such as is commonly used in Suttons Bay Township to identify a residence, may be displayed.
- C. No more than three (3) bedrooms shall be available for Bed and Breakfast use.
- D. One (1) off-street parking space shall be available for each Bed and Breakfast bedroom.
- E. Approval of the well and septic system must be obtained from the local or state health department.

(Annotation: Section amended by Amendment 15-004 effective February 26, 2016)

## **SECTION 14.4 MEDICAL USE OF MARIJUANA**

(Annotation: Section added by Amendment 11-005 effective November 25, 2011)

- A. Intent and Purpose. The enactment of the Michigan Medical Marijuana Act (hereinafter referred to as the "MMMA"), Initiated Law 1 of 2008, MCL 333.26423, *et seq*, and its administrative rules, R 333.101, *et seq*, has precipitated the Suttons Bay Township Zoning Ordinance to implement land use regulations to address the medical use of marijuana in accordance with the MMMA.
- B. Regulations for Qualifying Patients. The medical use or cultivation of marijuana by a qualifying patient in that qualifying patient's dwelling or an accessory building is hereby recognized as an accessory use to the principal residential use of the property and can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:
  - 1. The qualifying patient must be issued and must maintain a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the MMMA.

2. The qualifying patient shall comply at all times with the MMMA and the General Rules of the Michigan Department of Community Health, as amended.
  3. All marijuana plants or products must be contained within the dwelling or accessory building in an enclosed, locked facility that permits access only by the qualifying patient.
  4. If a room with windows within the dwelling or accessory building is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
- C. Regulations for Primary Caregiver Facilities. A primary caregiver shall be permitted the medical use of marihuana as a primary caregiver as defined and in compliance with the General Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133 (the General Rules), the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq (“the Act”) and the requirements of this section, and shall ONLY be allowed as a home occupation in the principal dwelling unit. No land use permit shall be required, but this type of home occupation shall be subject to the State regulations and the additional requirement of this Ordinance.

Except as superseded by the State regulations and associated rules or by the additional requirements of this section, primary caregivers shall also be subject to Section 14.1 Home Occupations regulations. The following additional requirements for a Primary Caregiver as a home occupation shall apply:

1. The primary caregiver facility shall be operated by a primary caregiver who has been issued and maintains a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the MMMA.
2. All marijuana plants or products must be contained within the primary caregiver facility in an enclosed, locked facility that permits access only by the primary caregiver.
3. If a room with windows within the primary caregiver facility is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
4. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.

5. No more than one (1) primary caregiver per dwelling unit shall be permitted. The dwelling unit shall be the principal dwelling of the primary caregiver . The medical use of marihuana shall comply at all times with the MMMA and General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
  6. Medical marihuana shall be delivered to the qualifying patient where the qualifying patient resides. Pick up of medical marihuana from the primary caregiver's home occupation is prohibited. Transactions relating to compensation of costs associated with assisting a qualifying patient are prohibited from occurring at the primary caregiver's home occupation.
  7. A dwelling unit at which a primary caregiver of medical marihuana is functioning as a home occupation shall have no sign related to the use as a primary caregiver, including but not limited to any symbol portraying or representing a marijuana plant or portion thereof, may be visible from outside the dwelling unit.
- D. Relationship to Federal Law. Nothing within this section is intended to grant, nor shall it be construed as granting, immunity from federal law.

## **ARTICLE 15**

### **QUASI PUBLIC AND PRIVATE UTILITIES**

(Annotation: Article amended in its entirety by Amendment 17-002, effective October 27, 2017)

#### **SECTION 15.1 ESSENTIAL SERVICES**

##### **SECTION 15.1.1 INTENT**

It is the intent of this Section to allow minor essential services in any zoning district as a permitted use. Major essential services, depending on their size and nature, have a greater potential for an adverse impact on surrounding property, and are thus allowed on a more limited basis, subject to site plan and special land use approvals. It is also the intent of this section to clarify how governmental functions relate to this Zoning Ordinance.

##### **SECTION 15.1.2 ESSENTIAL SERVICES**

Essential services shall be permitted as authorized under any franchise in effect within the Township, subject to regulation as provided in any law of the State of Michigan, or in any ordinance of the Township. It is the intent of this section to ensure conformity of all structures and uses to the requirements of this Zoning Ordinance, wherever such conformity shall be practicable, and not in conflict with the specific requirements of such franchise, state legislation, or Township Ordinance.

Wireless Telecommunications Services and Wind Energy Conversion Systems shall not be considered Essential Services and are addressed elsewhere in this Ordinance.

- A. The following are considered major essential services and are permitted in certain zoning districts subject to specific review and approval procedures as described below:
1. Distribution substations, transmission substations, transformer substations, pump stations, and petroleum pipelines designed to serve a geographic area beyond Suttons Bay Township are permitted in all districts, subject to site plan and special land use approval.
  2. Municipal sewage treatment plants, public water plants, power plants, fuel storage facilities, public works buildings, storage yards and similar uses are only permitted in the Commercial or Industrial zoning districts, subject to site plan and special land use approval.
  3. Any essential service that is not a minor essential service pursuant to Section 15.1.2.B or which is not listed in Section 15.1.2.A.1 or 2 shall be considered a major essential service, permitted in any zoning district, subject to site plan and special land use approval.
- B. The following are considered minor essential services and are permitted in all zoning districts:

1. Overhead and underground utility facilities such as water mains, sewer mains and lift stations, electrical, gas, telephone, and cable television distribution lines and associated structures, transformers, and utility boxes that are designed to serve primarily Suttons Bay Township and any adjacent township, village, or city subject to any franchise agreement with the Township. With new developments, utility easements will be approved as part of a subdivision plat, condominium, or site plan.
2. Any other similar facilities not listed above, as determined by the Planning Commission.

### **SECTION 15.1.3 TOWNSHIP GOVERNMENTAL FUNCTIONS**

Suttons Bay Township owned properties and uses, where maintained and operated in furtherance of a governmental function, shall be exempted from the provisions of this Ordinance. Township projects are subject to the requirements of the Michigan Planning Enabling Act Section 125.3861 (as amended) which requires review by the Planning Commission for location, character, and extent of all projects in areas covered by the master plan.

### **SECTION 15.1.4 OTHER GOVERNMENTAL FUNCTIONS**

Uses pertaining to functions of governmental agencies other than Suttons Bay Township shall be subject to the provisions of this Ordinance unless exempted by Federal, State, or Local laws or court decisions.

## **SECTION 15.2 WIRELESS TELECOMMUNICATIONS SERVICES**

### **SECTION 15.2.1 INTENT**

The general purpose and intent of these regulations is to regulate the establishment of Wireless Towers and Wireless Equipment in accordance with MCL 125.3514 of the Michigan Zoning Enabling Act (“ZEA”) and the Federal Telecommunications Act of 1996 (“FTA”) and 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. It is further the purpose and intent of these regulations to:

- A. Provide for the appropriate location and development criteria for Wireless Towers and Wireless Equipment within the Township.
- B. Minimize the adverse effects of such facilities through careful design and siting; maximize the use of existing and future communication Wireless Towers and encourage the multiple uses of such facilities and protect the character of residential areas throughout the Township by limiting Wireless Towers to non-residential zoning districts.
- C. Promote the public health, safety, and welfare of the Township.

## **SECTION 15.2.2 DEFINITIONS**

As used in this Section 15.2, the following terms shall have the meanings set forth below:

- A. "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
- B. "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
- C. "Collocate" means to place or install wireless communications equipment on an existing Wireless Tower or in an existing Equipment Compound. "Collocation" has a corresponding meaning.
- D. "Equipment compound" means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located
- E. "FAA" means the Federal Aviation Administration.
- F. "FCC" means the Federal Communications Commission.
- G. "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.
- H. "Preexisting Wireless Towers, Antennas and Equipment Compound" means any tower, antenna equipment compound for which a land use and building permit or special use permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
- I. "Wireless Communication" means wireless, broadband, licensed or unlicensed, terrestrial or satellite, including commercial mobile, private mobile, broadcast, and public safety services, as well as fixed wireless services such as microwave backhaul or fixed broadband, and other such services. Wireless Communication does not include non-commercial amateur ham radio activity.
- J. "Wireless Equipment" means the set of equipment and network components used in the provision of commercial wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding



Wireless Towers. Wireless Equipment does not include non-commercial amateur ham radio activity.

- K. "Wireless Equipment Shelter" means a small building at the base of a Wireless Tower, located within the Equipment Envelope where Wireless Equipment is stored.
- L. "Wireless Tower" means a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building. The term "Wireless Tower" includes "Alternative Tower Structure" including man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers. An AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Wireless Tower does not include a tower used for non-commercial amateur ham radio activity.

### **SECTION 15.2.3 ZONING DISTRICT RESTRICTIONS**

Wireless Towers and Wireless Equipment, whether classified as a permitted use, or as a special land use, under the following provisions of this Zoning Ordinance, shall be allowed in all zoning districts in the Township, except for the Residential District.

### **SECTION 15.2.4 WIRELESS EQUIPMENT AS A PERMITTED USE**

- A. To encourage co-location and to minimize the number of Wireless Towers within the Township, Wireless Equipment shall be considered a permitted use of property and is not subject to special land use approval or any other approval under this Zoning Ordinance if all of the following requirements are met:
  - 1. The Wireless Equipment will be collocated on a Pre-existing Wireless Tower or in an Existing Equipment compound.
  - 2. The proposed collocation will not do any of the following:
    - a. Increase the overall height of the Wireless Tower by more than twenty (20) feet or ten (10) percent of its original height, whichever is greater.
    - b. Increase the width of the Wireless Tower by more than the minimum necessary to permit collocation.
    - c. Increase the area of the Existing Equipment compound to greater than two-thousand-five-hundred (2,500) square feet.

3. The proposed collocation complies with the terms and conditions of any previous final approval of the Wireless Tower or Equipment Compound under this Zoning Ordinance.

B. Additional towers within an existing Wireless Tower AM array shall be permitted as a matter of right.

### **SECTION 15.2.5 WIRELESS EQUIPMENT AS A PERMITTED USE WITH SPECIAL LAND USE APPROVAL**

Wireless Equipment that meets the requirements of Section 15.2.4 A. 1. but does not meet the requirements of Section 15.2.4. A. 2. shall be a permitted use as long as it receives special land use approval under the following provisions:

- A. An application for special land use approval of wireless communications equipment described in this Section 15.2.5 shall include all of the following:
  1. A site plan as required under Section 15.2.13 including a map of the property and existing and proposed buildings and other facilities.
  2. Any additional relevant information that is specifically required by other Subsections.
- B. After an application for a special land use approval is filed with the Zoning Administrator, the Zoning Administrator shall determine whether the application is administratively complete. Unless the Zoning Administrator proceeds as provided under subsection (C) below, the application shall be considered to be administratively complete when the Zoning Administrator makes that determination or fourteen (14) business days after the Zoning Administrator receives the application, whichever is first.
- C. If, before the expiration of the fourteen (14) day period under subsection (D), the Zoning Administrator notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the fourteen (14) day period under subsection (D) is tolled until the applicant submits to the Zoning Administrator the specified information or fee amount due. The notice shall be given in writing or by electronic notification. A fee required to accompany any application shall not exceed the Township's actual, reasonable costs to review and process the application or one thousand (1,000) dollars, whichever is less.
- D. The Planning Commission shall approve or deny the application not more than sixty (60) days after the application is considered to be administratively complete. If the Planning Commission fails to timely approve or deny the application, the application shall be considered approved and the Planning Commission shall be considered to have made any determination required for approval.

**SECTION 15.2.6 REPLACEMENT OF EXISTING COMMUNICATION TOWERS**

An existing wireless 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 tower shall not exceed the prior approved height.
- B. The replacement tower shall be located within the same zoning lot as the existing wireless tower and shall be located so as to maximize compliance with existing minimum setback requirements.
- C. The applicant shall cause the existing tower to be removed within ninety (90) days of completion of the replacement tower and the relocation or installation of the antenna. In any event, the existing wireless tower shall be removed within one hundred eighty (180) days of the Township's final construction inspection of the replacement wireless tower.
- D. If the location of the replacement tower is such that the existing tower must be moved before the replacement 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 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 wireless tower.
- E. The installation of a replacement tower in any zoning district shall be approved by the Zoning Administrator through the issuance of a land use permit. The Zoning Administrator shall approve such requests that meet the requirements of this section. Review by the Zoning Administrator shall be without notice.
- F. 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 15.2.7 NEW WIRELESS TOWERS AND WIRELESS EQUIPMENT APPLICATIONS**

Wireless Towers to be newly-approved, and Wireless Equipment that do not qualify for co-location or for use in an existing Equipment Envelope under Section 15.2.4, and Section 15.2.5 shall require an application for approval under a special land use permit under the procedures in Section 15.2.5 except that the period for approval or denial is ninety (90) days.

**SECTION 15.2.8 GENERAL SPECIAL LAND USE STANDARDS FOR WIRELESS TOWERS**

A new wireless tower shall not be approved unless it can be demonstrated by the applicant that there is a need for the new wireless tower which cannot be met by placing an antenna on an

existing wireless tower, or on another structure, or through the replacement of an existing wireless tower. Information concerning the following factors shall be considered in determining that such need exists:

- A. Insufficient structural capacity of existing wireless towers or other suitable structures and infeasibility of reinforcing or replacing an existing wireless tower.
- B. Unavailability of suitable locations to accommodate system design or engineering on an existing wireless tower or other structures.
- C. Radio frequency interference or other signal interference problems at existing wireless towers or others structures.
- D. The refusal of owners or parties who control wireless towers or other structures to permit an antenna to be attached to such wireless towers or structures.
- E. Other factors which demonstrate the reasonable need for the new wireless tower.

#### **SECTION 15.2.9      SPECIFIC WIRELESS TOWER SPECIAL LAND USE STANDARDS**

The following standards apply to all Wireless Towers requiring a special use permit.

- A. A Wireless Tower may be located on a zoning lot containing other principal uses. The wireless 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 wireless tower is located shall be the area subject to the requirements of this section, rather than the entire zoning lot, unless otherwise provided herein.
- B. The Wireless Tower shall meet all requirements of the zoning district in which it is located which are not inconsistent with this section. Minimum setback requirements shall be measured from the boundary of the zoning lot to the closest portion of the wireless tower, or the accessory equipment or storage area, whichever is closer.
- C. The minimum distance between a Wireless 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.
- D. Wireless Towers shall be constructed and maintained 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.
- E. Wireless Towers shall not be used for advertising purposes.

- F. Fencing shall be required to ensure security and safety of a Wireless 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.
- G. The Wireless Tower shall have a landscaped buffer so that the base of the wireless 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.
- H. Wireless Towers shall not have a shiny or reflective finish.
- I. Wireless Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- J. Not less than one off-street parking space shall be provided on-site for use by service and public safety vehicles.
- K. Adequate ingress and egress to the Wireless Tower shall be provided by means of an all-weather durable driveway not less than twelve (12) feet in width.
- L. No Wireless Tower shall be placed within a public right-of-way or within a road easement.
- M. All Wireless 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.
- N. All Wireless Towers that utilize guy wires shall have those guy wires clearly marked by a colored sleeve.
- O. A Wireless Tower 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 of 1970, as amended, may be denied if the antenna would detract from the historic character of the historic landmark or district.

**SECTION 15.2.10 SPECIFIC WIRELESS EQUIPMENT SHELTER SPECIAL LAND USE STANDARDS**

A. Wireless Equipment Shelters in the Agricultural, Rural Residential and Commercial zoning districts shall comply with the following requirements:

1. Shelter Size. The shelter structure shall not contain more than sixteen (16) square feet of gross floor area or be more than six (6) feet in height.
2. Equipment storage buildings or cabinets shall comply with all applicable building codes.
3. The Shelter may be located:
  - a. In a front or side yard provided the Shelter is no greater than four (4) feet in height or sixteen (16) square feet of gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least forty-two to forty-eight (42-48) inches and a planted height of at least thirty-six (36) inches, with eighty-five (85) percent opacity throughout the year.
  - b. In a rear yard, provided the Shelter is no greater than six (6) feet in height or sixteen (16) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches, with eighty-five (85) percent opacity throughout the year.

B. Wireless Equipment Shelters in the Industrial zoning district shall comply with the following requirements:

1. The equipment cabinet or structure shall be no greater than twelve (12) feet in height or one hundred (100) square feet in gross floor area and shall be located in accordance with the minimum setback requirements of the Industrial zoning district in which located.
2. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches, with eighty-five (85) percent opacity throughout the year. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence eight (8) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches, with eighty-five (85) percent opacity throughout the year.

**SECTION 15.2.11 SPECIAL LAND USE CONDITIONS OF APPROVAL AND DECISIONS  
BASED ON SUBSTANTIAL EVIDENCE**

A. Conditions may be added that are:

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

B. The Decision to grant or to deny a special land use shall be in writing and shall be based upon substantial evidence in the record.

**SECTION 15.2.12 ESCROW FEE REQUIRED**

Each applicant for administrative approval shall apply to the Zoning and Planning Office providing the information required by this Section 15.2 of this Zoning Ordinance and a non-refundable fee and escrow deposit as established by resolution of Suttons Bay Township Board in order to reimburse Suttons Bay Township for the costs of reviewing the application, along with the required signed and notarized "ACKNOWLEDGMENT OF RECEIPT & AGREEMENT OF COMPLIANCE" form.

**SECTION 15.2.13 SITE PLAN REVIEW AS PART OF SPECIAL LAND USE APPROVAL**

A. The following requirements shall be part of the site plan review requirements for Wireless Towers and antenna in addition to those found in Article 20 Special Land Use Permits and Article 19 Site Plan Review, respectively:

1. Applications for site plan review under this sub-section shall be subject to the procedures and requirements of Article 20 Special Land Use Permits and Article 19 Site Plan Review, except as modified in this sub-section.
2. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
3. A scaled site plan, elevation drawings, and narratives clearly indicating:
  - a. the location, type and height of the proposed tower; on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities);

- b. adjacent roadways, proposed means of access;
  - c. setbacks from property lines;
  - d. elevation of the proposed tower and any other structures;
  - e. topography;
  - f. parking; and
  - g. other information deemed by the Zoning and Planning Office or Planning Commission to be necessary to assess compliance with the intent of this zoning ordinance.
4. Legal description of the parent tract and leased parcel (if applicable).
  5. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties, including those within the commercial and agricultural districts.
  6. A landscape plan showing specific landscape materials.
  7. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
  8. A descriptive narrative of compliance with the special land use standards:
    - a. Inventory of Existing Site;
    - b. Aesthetics;
    - c. Lighting;
    - d. State or Federal Requirements;
    - e. Building Codes/Safety Standards;
    - f. Franchises;
    - g. Signs;
    - h. Buildings & Support Equipment
    - i. Setbacks;
    - j. Separation;
    - k. Security Fencing;
    - l. Landscaping; and
    - m. all applicable federal, state or local laws.
  9. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the coverage area which have an impact on this application.



- B. No part of this Section 15.2 shall exempt the applicant from such other governmental review and permitting procedures (i.e., Federal Communication Commission (FCC), Federal Aviation Administration (FAA), etc.).

#### **SECTION 15.2.14 CO-LOCATION COMMITMENT**

The applicant must include a statement in the application of its good faith intent to allow the co-location of Antennae and of other wireless equipment of other entities, provided that the cost of modifying the wireless tower to accommodate the co-location is borne by the co-locating entity.

#### **SECTION 15.2.15 REMOVAL OF ABANDONED COMMUNICATION TOWERS**

Any wireless 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 wireless tower for one hundred eighty (180) days or more. Where the removal or demolition of an abandoned wireless 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 wireless tower. A lien on the property shall be superior to all other liens except taxes.

#### **SECTION 15.2.16 NONCONFORMING TOWER USES**

- A. Not Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- B. Preexisting towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.
- C. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding Section 15.2.15, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit. The type, height, and location of the tower on-site shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 15.2.15.

#### **SECTION 15.2.17 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 wireless 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.

### **SECTION 15.3 COMMERCIAL WIND TURBINE GENERATORS**

Section deleted

### **SECTION 15.4 SMALL WIND ENERGY SYSTEMS**

Added in its entirety by Amendment 09-003, effective 11-30-09

#### **Section 15.4.1 INTENT**

The intent of this section is to recognize the concern for the conservation of energy resources and the desire of residents of Suttons Bay Township to contribute to such conservation with the installation of privately owned devices for the generation of electricity or mechanical energy for their own use. It is the purpose of this Section to promote the safe, effective and efficient use of small wind energy systems.

#### **SECTION 15.4.2 PERMITTED USE**

Small Wind Energy Systems are permitted by right in all districts, provided the Zoning Administrator finds that all of the requirements of this section are met.

This Section of the Ordinance allows for private wind turbine generators and is not intended to allow for the leasing of private lands for energy production intended for use on other properties. The language in this Section is solely to allow for and to regulate the production of energy for consumption on the property in which the system is located.

Small wind energy systems require a Land Use Permit and are subject to certain requirements as set forth below:

- A. **Small Wind Energy System Tower Height:** Regardless of the structure height limitations of the zoning district in which a Small Wind Energy System is located, the height of a Small Wind Energy System tower can extend to no more than eighty (80) feet.
- B. **Clearance of Blade:** The lowest point of the arc created by rotating wind vanes or blades on a Small Wind Energy System shall be no less than twenty (20) feet above ground and no blade sweep shall extend over parking areas, driveways, sidewalks, decks or required setback areas.
- C. **Set-back:** Towers shall be setback from any property line no less than the height of the tower.
- D. **Appearance:** Towers and/or small wind energy systems shall not be painted such as to stand out from the surrounding foliage and buildings. There shall be no advertising or signage other than the manufacturer's logo and cautionary signage, both of which are allowed at the base. Towers shall not be lighted.

- E. Safety: Towers must be equipped with an appropriate anti-climbing device or be enclosed by security fencing not less than six (6) feet in height.
- F. Noise: When operating, small wind energy systems shall not generate more than sixty (60) decibels of sound, as measured at any lot line. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.
- G. Code Compliance: Small wind energy systems shall comply with all applicable federal, state, and local construction and electrical codes and local building permit requirements.
- H. Utility Connection: All utility lines leading to or from the wind energy generating device shall be underground.
- I. Non Use: Towers must be maintained in a safe condition or be removed at the property owner's expense.
- J. Requirements for Land Use Permit: A Land Use Permit application shall include a plot plan including existing structures, lot lines, roads, overhead utility lines, and the small wind energy system itself. A cross section drawing of the structure, base and footings must also accompany the application.

## **ARTICLE 16**

### **OPEN SPACE LAND DEVELOPMENT**

(Annotation: Title changed by Township Ordinance No. 4 of 2011, effective June 24, 2011)  
(Annotation: Article amended in its entirety by Amendment 17-003, effective October 27, 2017)

#### **SECTION 16.1 INTENT**

It is the intent of this Article to establish and implement the goals of the Suttons Bay Township Master Plan, adopted in August 2011, which directs the Township to preserve open space, farmland, natural beauty and critical environmental areas. With this directive in mind, the Township offers this flexible development alternative to protect open space, farmland, scenic views, rural character, reduce infrastructure and the impact on natural resources. Article 16 should be used especially when these principles may otherwise be compromised.

#### **SECTION 16.2 GENERAL STANDARDS**

- A. The provisions of this Article shall apply to all Districts in Suttons Bay Township.  
(Annotation: Section changed by Township Ordinance No. 4 of 2011, effective June 24, 2011)
- B. Open Space Land Developments (sometimes referred to as “cluster housing” or “clustered development”) are considered developments that permanently maintain and preserve a minimum of twenty (20) percent of the total gross acreage as open space.
- C. Duplexes shall be considered with Planning Commission approval.
- D. Multi-family housing shall require a Special Use Permit.  
(Annotation: Amended by Amendment 06-002 (SBT #102) on June 14, 2006)

#### **SECTION 16.3 NUMBER OF UNITS AND OPEN SPACE CALCULATION OPTIONS**

The following options for calculating the number of lots or units within a proposed open space residential land development are based on the total gross acreage of the property, the percentage of open space provided, and the underlying minimum density. In no case shall a development result in fewer lots or units than would otherwise be permitted in the Agricultural District without reference to this Article (conventional development).

- A. Fifty (50) Percent Open Space Designation  
In an application that proposes a fifty (50) percent open space designation the density shall be calculated by dividing the total gross acreage of the proposed project area by two (applying the underlying density of a minimum lot size of two (2) acres). For example, a one hundred (100) acre development would result in an allowable density of not more than fifty (50) lots or units.
- B. Thirty-five (35) Percent Open Space Designation  
In an application that proposes a thirty-five (35) percent open space designation, density shall be calculated by dividing the total gross acreage of the proposed

project area by two (applying the underlying density of a minimum lot size of two (2) acres) and multiplying the result by ninety (90) percent. For example, a one hundred (100) acre development would result in an allowable density of not more than forty-five (45) lots or units ( $100/2 \times .90 = 45$ ).

C. Twenty (20) Percent Open Space Designation

In an application that proposes a twenty (20) percent open space designation, density shall be calculated by dividing the total gross acreage of the proposed project area by two (applying the underlying density of a minimum lot size of two (2) acres) and multiplying the result by eighty (80) percent. For example, a one hundred (100) acre development would result in an allowable density of not more than forty (40) lots or units ( $100/2 \times .80 = 40$ ).

D. The calculated allowable number of lots or units shall be rounded down.

#### **SECTION 16.4 OPEN SPACE PRESERVATION**

Dedicated open space areas shall be located and designed to protect the most sensitive and significant resources such as wetlands, steep slopes, scenic views, woodlands, and ridgelines.

A. Conveyance

1. Dedication of open space shall be set aside by the developer through an irrevocable conveyance in form and substance acceptable to the Township Attorney and approved by the Township Board in one of the following legal actions:
  - a. Dedicated open space may remain with the owner of the parent parcel, a homeowners association made up of parcel owners in the development, the township, or a recognized non-profit land conservancy.
  - b. Master Deed, as established by the State of Michigan Condominium Act, Act 59 Public Act of 1978, as amended.
  - c. Conservation easement established by the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (MCL 399.251).
  - d. Any other acceptable legal means of land conveyance.
2. The conveyance shall guarantee that the dedication of open space shall forever remain as open space. The conveyance shall record both permitted and prohibited uses of open land.

3. A Special Use Permit will only be issued upon conveyance and recording of the Open Space with the Leelanau County Register of Deeds.

#### B. Permitted Uses in Open Spaces

1. Unless otherwise authorized by the Planning Commission, only the following uses shall be permitted in the open space:
  - a. Farming, as provided in Section 4.2.B Farming.
  - b. Wildlife Management Areas, as provided in Section 4.2.D Wildlife Management Areas.
  - c. Roadside Stands, as provided in Section 4.3.G Roadside Stands.
  - d. Keeping Horses, as provided in Section 4.3.I Keeping Horses.
  - e. Farm Market, as provided in Section 4.3.M Farm Market.
  - f. Facilities for passive recreation, such as swimming pools, as provided in Section 4.5.C Swimming Pools.
  - g. Accessory Uses or Structures, as provided in Section 4.5.F Accessory Uses or Structures.
2. Allowable Structures: Any structure or building accessory to a passive recreation, conservation, or agricultural use may be erected within the dedicated open space, subject to the approved site plan. These accessory structures or buildings shall meet or exceed requirements of the Agricultural Zoning District.
3. Easements for utilities and septic systems.
4. Future divisions of the Open Space for residential use will be prohibited.

### **SECTION 16.5 GENERAL DEVELOPMENT PROVISIONS AND STANDARDS**

To encourage flexibility and creativity consistent with the open space development concept, the Planning Commission may depart from the Township's zoning standards and regulations and consider and approve the following design considerations:

- A. Open Space Land Development may utilize any legal form of land conveyance allowed by this Ordinance including subdivisions, site condominiums and land divisions. The project shall also meet the requirements of each method of conveyance.

- B. Lot size, lot width, lot coverage, parking, general provisions, and other requirements, provided that such modifications result in the objectives intended to be accomplished, with respect to each of the standards set forth in Section 3.6 Schedule of Area, Height, and Placement Regulations from which a modification is sought, subject to the minimum standard provisions of Section 16.5.B. through 16.5.F. below.
- C. Minimum setbacks shall be ten (10) feet from any lot line, forty (40) feet from any public road right-of-way, fifty (50) feet from any shoreline, and twenty-five (25) feet from any wetland.
- D. Lots within the development that border the development boundaries shall maintain setbacks set forth in the underlying zoning district.
- E. No more than twenty-five (25) percent of the total area of any lot shall be covered by impervious surface.
- F. All lots shall have a minimum of thirty (30) feet of frontage along an approved public or private road.
- G. Roads – Public roads shall meet standards as set forth by the Leelanau County Road Commission. Private roads shall meet standards established in Section 3.16 Private Road Standards.
- H. Septic Systems – Given the topography and soils in the area, septic systems must meet Benzie/Leelanau District Health Department septic system standards. Innovative technology shall be used where appropriate.

#### **SECTION 16.6 DESIGN OBJECTIVES FOR SITING LOTS**

In evaluating the layout of proposed lots and the resulting open space land, the developer should consider natural features and their limitations as the prime consideration in determining lot layout. The open space residential land development site plan should:

- A. Protect and preserve all wetlands, floodplains and steep slopes (twenty-five (25) percent or greater) from clearing, grading, filling, or construction.
- B. As much as practical, preserve and maintain existing fields, orchards, and pastures, and create sufficient buffer areas to minimize conflicts between residential and agricultural uses. The greatest consideration should be given to not developing on prime, important and unique soils.
- C. Minimize impacts on woodlands, especially those located on prime timberland soils or important farmland soils.

- D. Maintain or create an undisturbed upland buffer of native vegetation of at least one hundred (100) feet (in depth) from adjacent surface waters, including lakes and streams.
- E. Consider the elevation of any rooftop in relation to the elevation of any ridge line as seen from any public way. The visual horizon line shall have the appearance of being unbroken. This is not intended to prevent the selective trimming of trees for filter views. Existing trees should be retained or new plantings be made and maintained to lessen the visual impact of new construction sited near hilltops or ridges as seen from any public way.
- F. Protect wildlife habitat areas, including wildlife corridors.
- G. Protect rural roadside character and improve public safety by avoiding development fronting directly onto existing public roads.
- H. Design around and preserve sites of historic archaeological or cultural value, as needed to safeguard the character of the feature.
- I. Leave scenic views and vistas unblocked or uninterrupted, particularly as seen from adjacent public road and waterways.
- J. Provide that open space land shall be as contiguous as possible.

## **SECTION 16.7 APPLICATION AND REVIEW PROCEDURE**

All submittals for an Open Space Residential Land Development shall conform to Article 19 Site Plan Review with the following procedural exceptions:

- A. A pre-application conference between the applicant, township staff, and either a committee of Planning Commissioners or the full Planning Commission is encouraged. At this conference the parties shall discuss the applicant's objectives and how they may be achieved under this ordinance. A conceptual plan is helpful at this stage, and a site visit may be scheduled at this time.
- B. After a pre-application conference, the applicant shall submit ten (10) copies of a Preliminary Site Plan drawn to scale that conforms to Section 19.3 Application for Site Plan Review. The following are requirements of the Preliminary Site Plan and are in addition to the requirements set forth in Section 19.3.
  - 1. Location of existing structures with historical significance.
  - 2. Wetlands (indicate how wetlands are determined).



3. Vegetative cover on property according to general cover type such as orchards, permanent grassland, meadow, pasture, old field, woodlands, wetlands.
4. Soil type locations and a table identifying soil characteristics relating to agricultural capability, seasonal high water table, depth to bedrock, and suitability for on-site disposal systems, as per the Leelanau County Health Department.
5. Indicate ridge lines and slopes over eighteen (18) percent.
6. Viewshed analysis. Scenic views onto the tract or parcel from surrounding roads and public areas and well as views of scenic features from within the tract.
7. Other information deemed necessary by the Planning Commission to insure conformance with this Ordinance and other applicable regulations.
8. A description of the proposed conveyance of development rights for open space areas.

C. Planning Commission shall hold a Public Hearing in accordance with Section 19.5.D Preliminary Site Plan Review. At this time all preliminary agency reviews and approvals must be complete. If a permit has not been obtained by a reviewing agency, a letter confirming the status of the permit review must be provided by the reviewing agency.

## **SECTION 16.8 FINAL APPROVAL**

- A. Final site plan for the Open Space Residential Development shall be reviewed by the Planning Commission as set forth in Section 19.5E Final Site Plan Review. The final open space residential development submittal must be prepared as one of the following:
1. Subdivision Plat as defined by the Land Division Act, PA 87 of 1997, as amended:
    - a. The final site plan must be submitted in the form of a preliminary plat in detail sufficient to be granted tentative preliminary plat approval in conformance with the state of Michigan Land Division Act and the conditions established in the preliminary open space residential development submittal.
    - b. Construction of the initial phase of the open space residential development shall be completed within two years following final approval. This limit may be extended for a reasonable period to be determined by the Planning Commission, upon written application

by the developer for cause shown. If this time limit is not met and an extension is not granted, the open space residential development approval is automatically rescinded.

- c. The zoning administrator shall monitor progress of the open space residential land development.

2. Condominium Plan as defined by the Condominium Act

- a. The final open space residential development submittal shall be prepared in the form of a condominium plan pursuant to the requirements of the Condominium Act in detail sufficient to be granted approval in conformance with the condominium provisions of this Ordinance and the conditions established in the preliminary approval submittal.

- b. The zoning administrator shall monitor progress of the open space residential land development.

3. If a proposed Open Space Residential Land Development qualifies for approval under the Suttons Bay Township Land Division Ordinance, the applicant must obtain a land division in addition to meeting the requirements of this Article.

B. Prior to Planning Commission approval, it shall be determined that:

- 1. Satisfactory provisions for the financing of any improvements and maintenance of those improvements shown on the site plan for open spaces and/or common areas have been assured.
- 2. The cost of installing all streets and utilities has been assured by a means satisfactory to the Commission.

(Annotation: Article X Cluster Housing Developments replaced with Article X Open Space Residential Land Developments by Amendment 03-001 effective on February 28, 2003)

## **ARTICLE 17**

### **CONDOMINIUM SUBDIVISIONS**

Replaced in its entirety by Amendment 03-002, effective July 3, 2003.  
(Annotation: Article amended in its entirety by Amendment 17-004, effective October 27, 2017)

#### **SECTION 17.1 INTENT**

It is the intent of this Article to establish and implement the goals of the Suttons Bay Township Master Plan, which directs the Township to retain the rural atmosphere of Suttons Bay Township, and to protect the wetlands, farmlands, woodlands, and other open space by encouraging clustering for residential and commercial uses. The greater flexibility afforded by allowing site condominium developments should make development of difficult sites easier and more aesthetically pleasing.

#### **SECTION 17.2 GENERAL PROVISIONS**

For the purpose of this section, a Site Condominium Subdivision shall include any residential or commercial development proposed under the provisions of the Condominium Act [Public Act 59 of 1978, as amended (“PA 59”)] consisting of two (2) or more single family detached/attached residential structures and/or commercial units on a single parcel, including single family residential structures developed as "clustered housing developments", as reviewed and approved through the Article 16 Open Space Residential Land Development, when ownership is "condominium" rather than "fee simple". The Township’s zoning review of condominium projects is based upon section 141 of 1978 PA 59 (MCL 559.241).

#### **SECTION 17.3 PROJECT CONSIDERATIONS AND REQUIREMENTS**

- A. Site Condominium Lots - The Condominium Subdivision Plan shall indicate specific parcel dimensions with front, rear and side site condominium lot lines allocated to each condominium unit intended for separate ownership. For the purpose of this Article, and to assure compliance with the provisions herein, condominium units as defined in PA 59, shall be referred to as site condominium lots.
  
- B. Area and Bulk Requirements - Each site condominium dwelling unit shall be located within a site condominium lot.
  - 1. Each site condominium lot, with regard to lot size, building heights, setbacks, and lot coverage shall conform with the requirements of the zoning district in which it is located, as indicated in Section 3.6 Schedule of Area, Height, and Placement Regulations of this Ordinance.
  - 2. The site condominium lot size and the required setbacks shall be measured from the designated front, rear and side site condominium lot lines.
  - 3. A twenty (20) foot wide landscaped easement shall be maintained on all site condominium lots which border M-22 and other County Primary

Roads, to restrict access to the primary road, to minimize noise, and to protect outdoor living areas.

4. Unless the circumstances are such that the land area is not of sufficient size to develop secondary roads, all site condominium lots shall front on secondary roads. Site condominium lots along M-22 and other County Primary Roads shall either back up to such roads or shall front onto a service drive.
- C. Streets - All site condominium lots shall front upon a public road, or private road which complies with the road standards of this Ordinance. All public streets within a condominium subdivision shall be constructed as required by, or in accordance with policies established by, the Leelanau County Road Commission. All private roads within a site condominium shall meet the requirements of Section 3.16 Private Roads Standards.
- D. Water Supply and Sewage Disposal Systems - Water Supply and Sewage Disposal Systems shall comply with the requirements of the Benzie/Leelanau District Health Department and/or State of Michigan.
- E. Landscaping - The condominium subdivision development shall comply with applicable requirements of Section 3.12 Landscaping, Screening, Buffers and Greenbelts.
- F. Lighting – All outdoor lighting shall meet the standards of Section 3.18 Outdoor Lighting Standards.
- G. Storm Water - Stormwater runoff shall be contained and handled on the site. Adequate and full measures shall be taken to accommodate the storm water runoff of the condominium subdivision on site.
- H. No site condominium lot, common area or element shall be further divided or changed in use without the express review and approval of the Planning Commission under site plan review, and otherwise in compliance with the standards of this Ordinance.

#### **SECTION 17.4 PLAN PREPARATION AND CONTENTS**

Site Plan submittal requirements for Site Condominium Subdivisions shall conform to Section 66 of 1978 PA 59 (MCL 559.166) and shall be as described in Article 20 Special Land Use Permits, Article 19 Site Plan Review, and this Article, with the following additional/concurrent requirements;

- A. The preliminary plan shall be designed and drawn by a licensed Civil Engineer, a licensed Land Surveyor, a licensed Architect or a licensed Landscape Architect.
- B. Identification and Description:

1. Proposed name of the project.
2. Full legal description to adequately describe the parcel or parcels of land in question.
3. Names and addresses of the applicant, owners, and the planner, architect, design engineer, surveyor, or landscape architect who designed the project layout. The applicant shall also indicate his interest in the land.

C. Existing Conditions:

1. Boundary lines of proposed project, section or corporation lines within or adjacent to the tract and overall property dimensions.
2. Property lines of adjacent tracts of subdivided and un-subdivided land shown in relation to the tract being proposed for site condominium subdivision including those areas across abutting roads.
3. Location, widths, and names of existing or prior easements of record, public and/or private.
4. Location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the tract being proposed for site condominium subdivision.
5. Topography drawn at contours with an interval of not more than two (2) feet. Topography to be based on USGS datum.
6. The location of significant natural features such as natural water courses, bodies of water, and stands of trees.

D. Proposed Conditions: Site Condominium Subdivisions shall meet the project plan considerations and requirements of Section 17.3 Project Considerations and Requirements and the following additional/concurrent requirements:

1. Layout of streets indicating proposed street names, whether public or private, right of way widths, and connections and adjoining streets, and also the widths of and locations of alleys, easements, public walkways, bike paths and other transportation related elements.
2. Layouts, numbers and dimensions of lots, including building setback lines showing dimensions and finished grade elevations of buildings first floor elevation.

3. Proposed topography, including contour lines at the same interval as shown for existing topography.
4. Indication of the parcels of land and/or easements intended to be dedicated or set aside for public use and a description of the common elements of the project and the use and occupancy restrictions as will be contained in the master deed.
5. An indication of the ownership and existing and proposed use of any parcels identified as "excepted" on the-preliminary plan (indicating whether or not it is future "convertible area" or part of an "expandable condominium" under PA 59.). If the applicant has an interest,- or owns any parcel so identified as "excepted," the preliminary plan shall indicate how this property could be developed in accordance with the requirements of the existing zoning district in which it is located and with an acceptable relationship to the layout of the proposed preliminary plan.
6. Statement describing the sewage system and method to be approved by the Benzie/Leelanau District Health Department and/or State of Michigan. If private individual septic systems are to be utilized, such systems shall be contained within the lot area and shall be limited to the exclusive use of the owner of the condominium unit.
7. Statement describing water supply system, with applicable agency(s) approval.
8. Schematic indication, run off calculation and description of storm drainage proposed that prevents any additional storm water runoff to other properties and is acceptable to the County Soil Erosion Officer and County Drain Commission.
9. In the case where the applicant wishes to develop a given area, but wishes to begin with only a portion of the total area, the preliminary plan shall include the proposed general layout for the entire area. The part which is proposed to be developed first shall be clearly superimposed upon the overall plan in order to illustrate clearly the method of development which the applicant intends to follow. Each subsequent development shall follow the same procedure until the entire area controlled by the applicant is subdivided. Each phase of the development shall not exceed, on a cumulative basis, the average density allowed for the entire development.
10. An indication of the means by which and extent that significant natural features such as water courses, bodies of water, and stands of trees are to be preserved in conjunction with the development of the proposed project.

11. Indication of the approximate area for all site improvements including roads, utilities, drains, and all building activity that will have to be cleared and graded in order to develop the proposed project.
12. The Preliminary Site Condominium Subdivision Plan will also indicate the significant ecological areas that are to be preserved in their natural state. The intent is not to require a detailed grading plan at this time but to ensure that the developer's consultant has given sufficient thought to the clearing and grading requirements in preparing the Preliminary Plan.
13. Condominium Protective Covenants and Deed Restrictions which hold harmless the Township for improvements within the site condominium subdivision and requires conformance of all conditions and requirements of site plan approval and this Ordinance. All deed restrictions, restrictive covenants or other proposed regulations for the layout, use and maintenance of public or common areas and structures shall be incorporated into the site plan as detail sheets and notes.
14. A grading and storm water drainage plan that shows proposed finished floor elevations, finished grades at structures, proposed storm water collection system, storm outlet(s), ultimate downstream outlet, all necessary off-site drainage easements, and, when required, retention/detention basin design calculations. Any areas of filled or reclaimed land shall be identified and all development shall detain storm water so that the runoff from the property does not negatively impact upon adjacent properties or public and private rights-of-way.
15. The condominium subdivision shall provide for the dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains, and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and stormwater runoff across, through, and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations. Easement dedication documentation may be reviewed by the Township Attorney and Engineer.
16. A utility plan shall show all existing and proposed utilities and easements located on or serving the site, including sizes of water and sewer lines, wells, proposed hydrants, proposed meter size, and proposed fire suppression line into building. Proposed sanitary leads, proposed sanitary sewers or on-site disposal systems must also be shown, as applicable.

17. A street construction and paving plan showing types of surfacing, method of drainage, and grade elevations. For private streets, a maintenance plan must also be provided.
18. Limited common elements, common elements, site condominium lots, preservation areas, convertible areas and any other designated ownership areas shall be clearly delineated on the site plan.
19. Prior to the issuance of any land use permit the site shall be marked with monuments per PA 59 and administrative rules, and a certified copy of the survey shall be filed with the Township.

### **SECTION 17.5 REVIEW PROCEDURES**

- A. Distribution to Authorities - The Zoning Administrator shall deliver the proposed condominium subdivision plan to the Commission for review. The Zoning Administrator shall retain one copy, and send one copy to the Township Fire Chief.
- B. Staff Review - The Township Zoning Administrator and/or Planner or consultant shall send recommendations to the Commission at least seven (7) days prior to Commission meeting.
- C. Planning Commission –
  1. The Commission shall review the condominium subdivision plan and the reports of the County Road Commission, the County Drain Commissioner, the County Soil Erosion Officer, the County Health Department, and the Township Zoning Administrator. An independent consultant(s) may be hired, at the applicant's expense, to review the project and make recommendations to the Commission.
  2. The Commission shall hold a public hearing on the proposed condominium subdivision plan, for the purpose of reviewing and approving, approving with conditions, or denying the application.
  3. The Commission shall either approve the site condominium subdivision plan with or without conditions, reject the plan and give its reasons, or table the proceedings pending changes to the plan to make it acceptable to the Commission.
- D. Attorney Review - The master deed, condominium bylaws, restrictive covenants, and related condominium documents shall be provided for Township Attorney review.
- E. Outside Agency Permits or Approvals - The applicant shall be responsible for obtaining all necessary permits or approvals from applicable outside agencies.



## **SECTION 17.6 CONDITIONS AND DURATION OF APPROVAL**

- A. Conditions - The approval of the Commission will indicate that the proposed site condominium subdivision plan meets the provisions of this Article 17 and PA 59, but does not cover additional permits that may be required after the Master Deed has been recorded.
- B. Duration - Upon approval the applicant shall have one (1) year from date of approval to complete common area infrastructure of roads and utilities. The Commission may extend the one year period upon written petition for extension. Such extension, if granted, shall cover only the material contained in the original approval process. Not more than three one-year extensions shall be granted.
- C. Condominium Subdivision Plan Approval Contract -
1. If the Commission approves the site condominium subdivision plan, it may request that the township attorney review a contract setting forth the conditions upon which such approval is based; such contract, after approval by the Township Board, shall be entered into between the township and petitioner prior to the issuance of a land use permit for any construction in accordance with the approved site condominium subdivision plan. All reasonable costs, as established by the Township Board, related to the preparation of said contract shall be paid by the petitioner to the Township Treasurer prior to issuance of any land use permits.
  2. If the Commission determines that the basic zoning application fees will not cover the actual costs of the application review, or if the Commission determines that review of the application and/or participation in the review process 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 Commission equal to the estimated additional costs.

## **SECTION 17.7 DESIGN LAYOUT STANDARDS, IMPROVEMENTS**

Construction of Development in Phases. For developments where construction is to occur in phases, that portion which is constructed shall conform with all laws, ordinances and regulations of all governmental bodies having jurisdiction, and be capable of functioning independently without further improvements, including, without limitation, without the necessity of constructing any additional roads, drainage or utilities.

## **SECTION 17.8 INTERPRETATION**

- A. Minimum Requirements. The provisions of these regulations shall be held to be minimum requirements adopted for the promotion and preservation of public health, safety, and general welfare of Suttons Bay Township.

- B. Application of Traditional Definitions. In the review of preliminary and final plans, as well as engineering plans, it is recognized that it may not be feasible to precisely apply traditional definitions and measures of "fee simple" development to the condominium subdivision. However, the review of plans submitted under this article shall be accomplished with the objective and intent of achieving results which are in harmony with the existing development of the adjacent properties and are consistent with the intent of the Township's Master Plan, and are in conformance with all requirements of Section 3.6 Schedule of Area, Height, Placement and Regulations of this Ordinance, as amended.
- C. Conflict with Existing Regulations. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of the Township, nor conflict with any statutes of the State of Michigan or Leelanau County except that these regulations shall prevail in cases where these regulations impose a greater restriction than is provided by existing statutes, laws or regulations. Nothing in this Ordinance shall be construed as requiring a Site Condominium Subdivision to obtain plat approval under the Subdivision Control Act.

## **ARTICLE 18**

### **SUBDIVISION (PLAT) CONTROL**

Added in its entirety by amendment 03-003, effective September 4, 2003  
(Annotation: Article amended in its entirety by Amendment 17-005, effective October 27, 2017)

#### **SECTION 18.1 INTENT**

The intent of this Article is to provide procedures and standards to control the subdivision of land within the township pursuant to the authority granted by the Michigan Land Division Act (P.A. 591 of 1996 as amended, M.C.L. 560.101 et seq) and the Michigan Planning Enabling Act (P.A. 33 of 2008 as amended, M.C.L. 125.3801 et seq) to promote the public safety, health, and welfare. This Article addresses the preparation and presentation of preliminary and final plats, minimum standards which must be met or guaranteed by the subdivider, and the procedure to be followed by the township in applying regulations and standards.

#### **SECTION 18.2 GENERAL PROVISIONS**

- A. For the purposes of this article, a Subdivision shall include any development proposed under the Michigan Land Division Act (P.A. 591 of 1996 as amended, M.C.L. 560.101 et seq), herein after called "Act."
- B. All Subdivisions are subject to the provisions and conditions of the zoning districts in which they are located.
- C. Definitions: For the purposes of this article the words and phrases defined in the Act and Section 2.2 Definitions of this ordinance shall have the meanings respectively ascribed to them in those sections.

#### **SECTION 18.3 PROJECT CONSIDERATIONS AND REQUIREMENTS**

- A. Lot size, height of structure, setbacks, area covered by structures, and lot area covered by structures shall be in conformance with the provisions of Section 3.6 Schedule of Area, Height and Placement Regulations for the zoning district in which it is located, unless developed under the provisions of Article 16 Open Space Residential Land Development.
- B. Setbacks shall be measured from the designated lot lines. Lot size shall be calculated from the designated lot lines.
- C. A twenty (20) foot wide landscaped easement shall be maintained on all lots which border M-22 and other County Primary Roads, to restrict access to the primary road, to minimize noise, and to protect outdoor living areas.
- D. Unless the circumstances are such that the land area is not of sufficient size to develop secondary roads, all lots shall front on secondary roads. Lots along M-22 and other County Primary Roads shall either back up to such roads or shall front onto a service drive.

- E. Streets - All lots shall front upon a public road, or private road which complies with the road standards of this Ordinance. All public streets within a subdivision shall be constructed as required by the Leelanau County Road Commission. All private roads within a subdivision shall meet the requirements of Section 3.16 Private Roads Standards.
- F. Water Supply and Sewage Disposal Systems - Water Supply and Sewage Disposal Systems shall comply with the requirements of the Benzie/Leelanau District Health Department and/or State of Michigan.
- G. Landscaping - The subdivision development shall comply with applicable requirements of Section 3.12 Landscaping, Screening, Buffers and Greenbelts.
- H. Lighting – All outdoor lighting shall meet the standards of Section 3.18 Outdoor Lighting Standards.
- I. Storm Water - Stormwater runoff shall be contained and handled on the site. Adequate and full measures shall be taken to accommodate the storm water runoff of the subdivision on site.
- J. Construction of Development in Phases. For developments where construction is to occur in phases, that portion which is constructed shall conform with all laws, ordinances and regulations of all governmental bodies having jurisdiction, and be capable of functioning independently without further improvements, including, without limitation, without the necessity of constructing any additional roads, drainage or utilities.

#### **SECTION 18.4 REVIEW AND APPROVAL PROCESS**

- A. All subdivision plat developments require approval by the Township Board.
- B. Within sixty-three (63) days, or such other time period as may be required by state statute, after a complete application for a proposed subdivision plat has been submitted, the Planning Commission shall recommend approval, approval with conditions or denial of the proposed subdivision plat to the Township Board. If the Commission does not act within sixty-three (63) days, and the applicant does not agree to an extension of time, the subdivision plat shall be considered approved.
- C. The Commission shall review the site plan per the standards and processes of Article 19 Site Plan Review and hold a public hearing which shall be noticed per Section 23.3.3 Notices.
- D. Upon determination that a subdivision plat request is in compliance with all of the standards and requirements of this Ordinance and other applicable township

ordinances and state laws, the Commission shall recommend approval of the subdivision plat plan to the Township Board.

- E. The Commission may impose reasonable conditions with the approval of a subdivision plat. Conditions of any approval are attached to the land and will remain through subsequent owners. The applicant shall submit to the Zoning Administrator a revised subdivision plat plan that demonstrates compliance with the conditions.
- F. Upon determination that a subdivision plat plan does not comply with all of the standards and regulations set forth in this Ordinance, other township ordinances or state laws, or requires extensive revision in order to comply with the applicable standards and regulations, the Commission shall recommend to the Township Board denial of the subdivision plat application.
- G. Re-submittal of a denied application shall be considered a new application.

#### **SECTION 18.5 FINAL APPROVAL OF PRELIMINARY PLAT**

- A. The application for proposed preliminary plat shall meet the provisions of Article 19 Site Plan Review requirements.
- B. Approvals shall be obtained from all applicable agencies.
- C. The application for proposed preliminary plat shall be submitted to the Township Zoning Administrator for Planning Commission review.
- D. The Planning Commission shall review the proposed preliminary plat for compliance with all applicable Township standards and requirements. The Planning Commission shall make a recommendation for approval, approval with conditions, or denial to the Township Board.
- E. If the Township Board determines that the proposed preliminary plat complies with all applicable ordinances and statutes and the provisions set forth above, it shall grant final approval of the preliminary plat, for a period of one (1) year from date of approval. Such final approval of the preliminary plat may be extended for a period of two (2) years at the discretion of the Township Board.

#### **SECTION 18.6 FINAL PLAT APPROVAL**

- A. The applicant shall submit thirteen (13) copies of the proposed final plat to the Zoning Administrator and the Township Attorney. This submittal shall include restrictions or any other submittal requirements contained in the Act.
- B. The Zoning Administrator shall review the final plat for compliance with the preliminary plat requirements and shall report to the Township Board.

- C. The Zoning Administrator shall review the status of the development of the final plat and report to the Township Board.
- D. A financial guarantee acceptable to the Township Board may be required if monuments, streets, drainage systems utilities, or any other improvements or requirements are not placed or installed.
- E. The Township Board shall approve the final plat if all the following are satisfied:
  - 1. All requirements of the "Act" have been met.
  - 2. The final plat meets all conditions of preliminary plat approval.
  - 3. All improvements have been placed or installed or financial guarantee is in place.
- F. After final approval the subdivision plat shall be recorded as an amendment to the Master Plan, copies to be kept with the files of the Master Plan, and noted on official copies of the Master Plan.

#### **SECTION 18.7 SUBDIVISION LOT DIVISION**

Platted lots may be partitioned or divided with the approval of the Township Board into not more than four parts, provided that the resulting lots or parcels or combinations or portions of two or more divided lots shall not be less in width or size than the more restrictive of the following: all requirements of the zoning district in which such lot is located and meeting all other requirements of this ordinance, the Township Zoning Ordinance and the Michigan Land Division Act (P.A. 228 of 1967 as amended, M.C.L. 560.101), and provided further that such resulting lots shall each have access to a public roadway or private roadway constructed to the standards of this Ordinance, and also to public utilities necessary or required to service such lot, and provided further, that all such resulting lots shall conform in all particulars to the requirements of the Michigan Land Division Act (P.A. 228 of 1967 as amended, M.C.L. 560.101) and all Township Ordinances.

## ARTICLE 19

### SITE PLAN REVIEW

(Annotation: Article amended in its entirety by Amendment 16-004, effective February 24, 2017)

#### SECTION 19.1 INTENT

The purpose of this Article is to establish uniform site plan procedural requirements and standards for all applicable land use developments in the Township so the site plan provisions of this Ordinance can be applied equitably and fairly, encouraging a harmonious relationship of land uses within the site and adjacent lands. Toward this end, this Ordinance requires site plan review and approval by the Planning Commission (Commission), Zoning Board of Appeals (ZBA), or the Zoning Administrator as set forth below, or as otherwise provided in this Ordinance.

#### SECTION 19.2 APPLICABILITY

Site Plan Review is required for any project requiring a Land Use Permit, Special Land Use Permit, Planned Unit Development, Site Condominium, Subdivision, Appeal, Variance, or under other circumstances required by this Ordinance.

#### SECTION 19.3 CATEGORIES / TYPES OF SITE PLANS AND REVIEW

There shall be three categories of site plans that are applicable depending on the different type and complexity of proposed land uses:

- A. **Administrative Site Plan** applies to Land Use Permits issued by the Zoning Administrator and to projects such as single family dwellings, additions to dwellings, and construction of accessory structures. See Article 23 Administration and Enforcement, Section 23.4 Land Use Permits.
- B. **Abbreviated Site Plan** applies to Variance Requests, Appeals, and projects where Abbreviated Site Plan Review is specified in this Ordinance. This review is performed by the Commission or ZBA.
- C. **Detailed Site Plan** applies to more intensive land uses as specified in this Ordinance, and applies to site plans that are not listed as Administrative or Abbreviated.

**SECTION 19. 4. CHART OF LAND USE PROJECT TYPES AND THE APPLICABLE SITE PLAN REQUIRED**

Type of Project	Administrative Site Plan Review	Abbreviated Site Plan Review	Detailed Site Plan Review
Land Use Permits	X		
Clustered Housing Development			X
Commercial Site Plan (over 3000 sft)			X
Commercial Site Plan (less than 3000 sft and change of use)			X
Commercial Site Plan (less than 3000 sft and no change of use, or accessory building)	X		
Commercial Site Plan change of use to a greater intensity		X	
Industrial Site Plan (over 3000 sft or change of industrial use)			X
Industrial Site Plan (less than 3000 sft and no change of use)	X		
Winery/Cidery			X
Agricultural Special Events		X	
Home Business		X	
All Other Special Land Uses			X
Dimensional Variances -ZBA		X	



### **SECTION 19.5      OPTIONAL PRE-APPLICATION SKETCH PLAN AND REVIEW**

Prior to submitting an application, and/or one of the applicable site plans described above, an applicant may choose to submit a sketch plan for review by the Zoning Administrator and/or the Commission. The sketch plan may be superimposed on an aerial photo of the parcel subject to the land use or may be a scaled drawing. The sketch should show the location of existing and proposed parcels, parcel boundaries, natural features, existing and proposed structures, and proposed improvements. The review shall be informal and advisory only, and shall not constitute any form of approval or authorization for granting of any type of land use or other permit. The review shall be done without cost to the applicant, but must be scheduled as an item of business on the Commission's agenda if the sketch plan is to be reviewed by the Commission.

### **SECTION 19.6      ADMINISTRATIVE SITE PLAN**

For submission standards, please see Article 23 Administration and Enforcement and Section 23.4. Land Use Permits. The Zoning Administrator shall review an Administrative Site Plan.

### **SECTION 19.7      ABBREVIATED SITE PLAN SUBMITTAL REQUIREMENTS AND REVIEW**

- A. The Commission or the ZBA shall review an Abbreviated Site Plan depending upon the type of land use described in Section 19.4 [Chart of Land Use Project Types and the Applicable Site Plan Required], or elsewhere in this Ordinance. An Abbreviated Site Plan Review requires a completed application, application fee, site plan, and applicable supporting documents such as photos, studies, permits, agency approvals, maps, etc. provided by the Applicant at the time the application is submitted or when requested by the Commission.
  
- B. The site plan shall be drawn to scale in a clear and concise manner, and may require a survey. The site plan shall be on paper which measures at least 8.5 by 11 inches, but not more than 36 by 42 inches. The drawing shall be such that the Zoning Administrator, ZBA and Commission can readily interpret the site plan, and shall include more than one drawing where required for clarity. The Site Plan shall include the information listed below, unless specifically waived by the Zoning Administrator, with concurrence by the Commission, or ZBA upon the determination that the requirements to be waived are not reasonably related to the proposed use.
  
- C. The Zoning Administrator, ZBA or Commission, upon initial review, may request additional information that it deems necessary to make a decision on the Application.
  
- D. The Site Plan shall include the following, unless waived by the Commission or ZBA:
  - 1. The property, identified by parcel lines and location and size.
  - 2. The scale and north point.

3. An identification block that includes the applicant's name and signature, date, and engineer's seal if applicable.
4. Natural features such as woodlots, water bodies, wetlands, high risk erosion areas, slopes over 25%, beach, drainage and similar features.
5. The location and dimensions, including the height, of all proposed and existing primary and accessory buildings, structures, and fences on the site.
6. All existing and proposed driveways.
7. Structures and buildings that are located on adjacent property.
8. Existing and proposed exterior lighting.
9. Show any changes or modifications required for any applicable regulatory agencies' approvals.
10. Location dimensions of existing and proposed utility easements, water, storm sewer and sanitary sewer lines, storm water drainage and retention areas.
11. Neighboring driveways, and other vehicular circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking areas and the identification of service lanes and service parking.
12. Proposed alterations to the topography and other natural features shall be indicated.
13. The proposed location of any open spaces, landscaping and buffering features such as greenbelts, fences, etc.
14. Location of any stream, wetland, or body of water within 500' of the subject parcel.
15. An area map showing the location of the site in relation to the surrounding street system.
16. A vicinity map showing the location of the site and the adjacent existing land uses within 300 feet of the project location.

## **SECTION 19.8 DETAILED SITE PLAN SUBMITTAL REQUIREMENTS AND REVIEW**

- A. The Commission shall review a Detailed Site Plan. Detailed Site Plan Review requires a completed application, application fee, site plan, traffic study (if applicable), statement on hazardous materials, groundwater extraction statement and supporting documents

such as photos, studies, permits, agency approvals, maps, soil borings, etc. provided by the Applicant or requested by the Commission.

- B. The site plan which shall be of a scale not to be greater than one (1) inch equals ten (10) feet nor less than one (1) inch equals two hundred (200) feet, and of such accuracy that the Commission can readily interpret the site plan, and shall include more than one drawing where required for clarity. The site plan shall be prepared by a registered professional architect, landscape architect, engineer, land surveyor, or community planner.
- C. The site plan shall include the information listed below, unless specifically waived by the Zoning Administrator, with concurrence by the Commission, upon the determination that the requirements to be waived are not reasonably related to the proposed use.
- D. The Commission, upon its review, may request additional information that it deems necessary to make a decision on the application.
- E. The site plan shall include the following, unless waived by the Commission:
  - a. All the data required for the Abbreviated Site Plan Review listed above.
  - b. The location, proposed finished floor and grade line elevations.
  - c. Site plans for residential development shall include a density schedule showing the number of dwelling units per acre, including a dwelling schedule showing the unit type and number of each unit type.
  - d. Any proposed roads, driveways, sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site.
  - e. Topography information based on USGS datum, or selected on-site elevations. More detailed information may be required where the Commission determines that the site and use warrant a more critical review of topography.
  - f. Generalized soil analysis data, which may include data, prepared by the Leelanau County Soil Conservation District, Leelanau County Planning Department, or more detailed soil data regarding the soils and their adaptability to the use. More detailed information may be required where the Commission determines that the site and use warrant a more critical review of soils.
  - g. Soil erosion and sediment control measures which shall include preventative soil erosion devices or measures, both during and after any site work related to the development, when required.

- h. Show any changes or modifications required for any applicable regulatory agencies' approvals. Site plan or design plan changes required after the Commission issues a Special Land Use Permit shall also be changed in accordance with procedures established in this Ordinance for minor adjustments or amendments to Special Land Use Permits.
- i. A traffic impact study prepared by a traffic engineer or traffic professional shall be provided that includes an analysis of vehicle type using the facility or development (police, medical, employees, visitors) peak hour traffic, and projected noise impact from increased traffic. If applicable, copies of the Michigan Department of Transportation and/or the Leelanau County Road Commission requirements and/or studies shall be submitted to the Township. The Commission may waive this requirement when it is deemed unnecessary.
- j. Hazardous materials statement indicating whether there will be any hazardous materials used or stored on the property.
- k. Groundwater extraction statement indicating the amount of groundwater to be extracted and any impact on the groundwater table.

#### **SECTION 19.9 SUBMISSION OF SITE PLAN COPIES AND ESCROW FUNDS**

- A. For an Administrative Site Plan Review one (1) copy is required.
- B. For an Abbreviated and Detailed Site Plan Review twelve (12) to eighteen (18) copies are required, as requested by the Zoning Administrator.
- C. Application fee is required at time of submittal. Fee is as required per the Suttons Bay Township Fee Schedule as said schedule may be adopted from time to time by the Suttons Bay Township Board.
- D. If the Commission or ZBA determines that the basic zoning application fees will not cover the actual costs of the application review or appeal, or if the Commission or ZBA 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 Commission or ZBA 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.

#### **SECTION 19.10 REVIEW FOR COMPLETENESS**

- A. The Zoning Administrator shall provide an initial review of an Abbreviated Site Plan and a Detailed Site Plan to insure they are complete, and contain all of the elements required by the standards of this Ordinance. Such review shall be undertaken concurrently with

the initial review of the land use application to determine that it is complete, as may be required elsewhere in this Ordinance.

- B. If the site plan is found to be incomplete, the Administrator shall return the site plan to the applicant with a list of items needed to make the site plan complete.
- C. If the site plan is found to be complete, the Administrator shall notify the Chairperson of the ZBA or Commission, schedule the Site Plan Review and Public Hearing if necessary, place the Application on the appropriate agenda, perform a written staff review of the Application, and distribute the Application, Site Plan and other materials to the reviewing body.

### **SECTION 19.11 COORDINATION WITH OTHER AGENCIES**

- A. The Zoning Administrator shall forward Abbreviated and Detailed Site Plans and Applications to the following Agencies where applicable for their information and opportunity to comment:
  - 1. Suttons Bay/Bingham Fire and Rescue
  - 2. Leelanau County Road Commission
  - 3. Michigan Department of Transportation
  - 4. Benzie/Leelanau District Health Department
  - 5. Leelanau County Drain Commissioner
  - 6. Leelanau County Sheriff's Department
  - 7. Any other agency that may be affected by the Site Plan.
- B. This review does not alleviate the Applicant from obtaining any and all required permits and/or approvals from these agencies. Any comments received within a reasonable time (21) days will be reviewed and considered by the Commission and/or the ZBA.
- C. The Commission may approve an Application conditioned on obtaining agency permits, or may, if the permit is critical to the Site Plan, require the permit or approval prior to issuance of their approval.
- D. No construction activity associated with an approved site plan shall be undertaken until permits and approvals from all applicable agencies have been presented to the Township Zoning Administrator.

- E. Whenever possible site plan review by the Zoning Administrator and Commission shall be coordinated and done simultaneously with other reviews by the Zoning Administrator and Commission on the same application.
- F. When an Application is dependent on the need for a dimensional variance from the ZBA, re-zoning of property, or a zoning ordinance text amendment, such action must be completed prior to Final Site Plan Approval by the Commission.

#### **SECTION 19.12 SITE PLAN REVIEW PROCESS**

- A. Abbreviated Site Plan Review: The site plan shall be reviewed and subject to any public hearing requirement of this ordinance and/or the Zoning Act. If a public hearing is required, no final decision on the site plan shall be made until at least one public hearing has been conducted. A site plan final decision may be tabled for more information. Any public hearing required may be conducted at the first scheduled public meeting after the application is found to be complete. For Zoning Board of Appeals cases refer to Article 24 Zoning Board of Appeals.
- B. Detailed Site Plan Review: An introductory public meeting is required, and the public hearing may be scheduled at the introductory meeting. A public hearing shall not occur, however, at the introductory public meeting. A decision may be made following the public hearing, or the Commission may postpone consideration of the request if it requires more information.

#### **SECTION 19.13 STANDARDS FOR SITE PLAN REVIEW**

The Commission, or Zoning Administrator, as applicable, shall approve, or approve with conditions, a site plan if that site plan meets all of the following standards:

- A. All applicable regulations of this Ordinance which apply generally to all districts, found in Article 3 General Provisions of this Ordinance.
- B. All applicable regulations of this Ordinance which apply to the specific zoning district.
- C. All specific standards for the specific proposed special use, if applicable.
- D. Any conditions imposed with the granting of a Special Use Permit or variance.
- E. All utility easements shall be distributed on site in a manner which is least harmful to surrounding properties. Electric, telephone, coaxial cable and other lines shall be located underground.
- F. Water lines, sewer lines, all provisions of surface water drainage shall be approved by the appropriate agency and designed in compliance with any applicable federal and/or state statute, and any Township and/or county ordinance.

- G. Evidence of sufficient protection to ensure there shall be no additional storm water run-off created by the project, or that adequate measures have been taken to accommodate such storm water run-off created on the site.

#### **SECTION 19.14 APPROVAL AND COMPLIANCE**

- A. In cases where the Commission reviews the site plan, the Commission shall act to approve, approve with conditions, or disapprove the site plan in writing with findings of fact.
- B. The action shall be recorded in a record of the zoning application and shall be filed with the Zoning Administrator. The Zoning Administrator or Commission shall notify the applicant in writing of its decision along with the Findings of Fact.

#### **SECTION 19.15 ESTABLISHING CONDITIONS ON SITE PLAN APPROVAL**

- A. A site plan may be approved with conditions necessary to comply fully with the intent of this Ordinance.
- B. Reasonable conditions may include conditions necessary to:
  - 1. Insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
  - 2. Protect the natural environment and conserve natural resources and energy.
  - 3. Insure compatibility with adjacent uses of land.
- C. Conditions imposed shall meet all of the following requirements:
  - 1. Be designed to protect natural resources, the health, safety, and welfare of those who will use the land or activity under consideration, residents and landowners immediately adjacent to the land or proposed activity, and the community as a whole.
  - 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
  - 3. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

#### **SECTION 19.16 SECURITY REQUIREMENT**

- A. As security for and to insure compliance with the site plan and zoning ordinance and any conditions, limitations or requirements imposed by the Zoning Administrator or Commission as necessary to protect natural resources or the health, safety and welfare of

the residents of the Township and future users or inhabitants of the proposed project or project area, the Administrator, upon advice and consent of the Commission, may require:

1. Cash deposit.
  2. Certified check.
  3. Irrevocable bank letter of credit or surety bond in such amount as determined necessary to ensure completion of the project, and under the conditions permitted by law.
- B. Such security shall be deposited with the Township Treasurer at the time of the issuance of the permit authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the Administrator or Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.
- C. Such security shall not exceed the reasonably estimated cost of the required conditions, limitations, requirements for which the security is designed to insure compliance.

#### **SECTION 19.17 AUTHORITY AND LIMITATIONS**

- A. A person aggrieved by a decision of the Zoning Administrator or Commission in granting or denying approval of a site plan, or regarding any conditions attached to an approval, may appeal the decision to the ZBA per the requirements of Article 24 of this Ordinance.
- B. Decisions on a Special Use Permit or Planned Unit Development site plan may not be appealed to the ZBA, and may be appealed directly to Circuit Court.
- C. Land Use Permits associated with an approved site plan will not be issued until permits and approvals from applicable outside agencies have been presented to the Township Zoning Administrator. Such permits and approvals shall include but not be limited to soil erosion and sedimentation control permits, wetland permits, floodplain permits, driveway and road permits, and Health Department permits.

#### **SECTION 19.18 EXPIRATION/PHASING/COMPLETION TIME/ EXTENSIONS**

An approved site plan shall be valid for a period of one (1) year from the date of approval. If construction or the permitted use has not commenced and proceeded meaningfully toward completion by the end of this one (1) year period, the site plan approval shall expire. The Zoning Administrator or Commission, whoever granted the site plan approval, may, at its discretion, extend the approved site plan for up to one (1) additional year, if requested to do so in writing by the applicant and if there is reason to believe that the applicant will commence construction of the permitted use and proceed meaningfully toward completion by the end of the second year,



and provided that the Suttons Bay Township Zoning Ordinance has not been amended in a manner that would affect the Site Plan as approved.

**SECTION 19.19 AMENDMENTS TO APPROVED SITE PLAN**

- A. MAJOR CHANGES (amendments): An application may be considered to amend an existing site plan, and shall be processed in the same manner as the original site plan application as described by this Article. Any changes to a site plan which are not considered as minor changes as provided in “B” below are to be processed as major changes.
  
- B. MINOR CHANGES: By mutual agreement between the Township and applicant, minor non-substantive changes may be made to an existing approved site plan if such change is sought prior to the issuance of an occupancy permit for any structure authorized by the Land Use Permit. Minor changes to an approved site plan shall be permitted only under the following circumstances:
  - 1. The owner of property for which a site plan land use has been approved shall notify the Zoning Administrator of any desired minor change to the approved site plan. Minor changes may only be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the minimal dimensional and other design standards of the site plan, and any specified conditions imposed as part of the original site plan approval. Minor changes shall include the following:
    - a. Reduction of the size of any building and/or sign.
    - b. Movement of buildings and/or signs by no more than ten (10) feet provided the movement is within the dimensional setback or building footprint for the appropriate zoning district or as otherwise approved by the Commission or the ZBA for the site plan.
    - c. Landscaping approved on the site plan that is replaced by similar landscaping to an equal or greater extent.
    - d. Changes in floor plans that do not exceed five (5) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
    - e. Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
    - f. Changes related to subsections (a) through (e) above, required or requested by state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not

alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval.

2. All amendments to a site plan approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the Applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the zoning administrator to sign and date all approved amendments.

#### **SECTION 19.20 AS-BUILT SITE PLAN**

- A. For a project which requires a detailed site plan review, an as-built site plan shall be submitted to the Township within 90 days of completion or occupancy, whichever comes first. This site plan shall be prepared to the same standard as the approved site plan. The Zoning Administrator shall use this as-built site plan as a comparison to the approved site plan, and the actual construction on the ground to insure compliance with the conditions, and other requirements of the site plan, Planned Unit Development, special use permit, and requirements of this Ordinance.
- B. If the as-built site plan does not show compliance with the conditions, and other requirements of the site plan, Planned Unit Development, special use permit, and requirements of this Ordinance the deviation shall be considered a violation of this Ordinance and shall be subject to any applicable enforcement remedy.

## **ARTICLE 20**

### **SPECIAL LAND USE PERMITS**

(Annotation: Article amended in its entirety by Amendment 16-004, effective February 24, 2017)

#### **SECTION 20.1 INTENT**

It is the intent and purpose of this Article to provide a set of procedures and standards for the review and, where appropriate, the granting of special land use permits in each of the districts in which special land uses are identified, at all times maintaining provisions for the protection of the health, safety, and general welfare of the Township's residents. Because of the complexity and unique characteristics of many special land uses, this Article shall provide for detailed review giving particular consideration to the impact of the proposed special land use on adjacent and neighboring properties and to the potential impact on the environment and on the community as a whole. In addition to approving a special land use permit, a site plan must also be approved, which is performed in conjunction with the special land use review.

#### **SECTION 20.2 APPLICABILITY**

A special land use is a use which, because of the intensity and other characteristics of the use has a greater potential for impact upon the zoning district, the environment, the community and/or upon the neighboring properties than permitted uses.

- A. Only those special land uses specifically identified as eligible for consideration in the particular zoning district in which they are to be located, may be considered for a special land use permit.
- B. All applications for special land use permits shall be considered by the Planning Commission (or "Commission") after a public hearing.
  - 1. The attendance of five (5) members constitutes a quorum for a meeting at which a special and use application is considered, but a majority of the entire nine (9) member Commission (5 members) shall be required to approve or deny a special land use request or to grant the request with conditions.
  - 2. The Commission shall have the authority to grant, to deny, or to grant with conditions, such special land use permits and site plans.
  - 3. The determination shall be considered final, and may be appealed only to the Circuit Court of Leelanau County.

#### **SECTION 20.3 PRE-EXISTING USE**

Any land use in existence, which was permissible by right in a zoning district, prior to its later designation as a special land use, shall continue as a non-conforming use. Any subsequent expansion of such an original permissible use, however, shall not be considered a nonconforming use and must proceed through the special land use permit process for approval.

#### **SECTION 20.4      OPTIONAL PRE-APPLICATION SKETCH PLAN AND REVIEW**

Prior to submitting an application, an applicant may choose to submit a preliminary plan for review by the Zoning Administrator and/or the Commission in order to assess the feasibility of a project. This plan is preliminary and may be superimposed on an aerial photo or may be a scaled drawing. The review shall be informal and advisory only, and shall not constitute any form of approval or authorization of granting any type of land use or other permit. The review shall be done without cost to the applicant, but must be scheduled as an item of business on the Commission's agenda if the sketch plan is to be reviewed by the Commission.

#### **SECTION 20.5      APPLICATION, FEE AND POSSIBLE ESCROW**

- A. All applications for a special land use permit shall be submitted to the Commission through the Zoning Administrator on a form available from the Zoning Administrator.
- B. The applicant shall provide twelve (12) to eighteen (18) copies of the application together with all accompanying data, as requested by the Zoning Administrator.
- C. The Application shall include the following:
  - 1. Application form.
  - 2. Application fee.
  - 3. Site Plan required per Article 19 Site Plan Review.
  - 4. Legal description of property.
  - 5. Detailed description of the proposed special land use, including a project schedule and a description of any development phasing.
  - 6. Completed checklist showing how the proposed Special Land Use meets Section 20.8 Governing Standards.
  - 7. Agency Checklist.
  - 8. Copies of permits, approvals, or review letters from agencies.
  - 9. Letter of authorization if the applicant is not the owner.
  - 10. Escrow fee if required.
  - 11. Photos (optional).
  - 12. Letters supporting the special land use (optional).
- D. If the Commission determines that the basic zoning application fees will not cover the

actual costs of the application review, or if the Commission determines that review of the application and/or participation in the review process 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 in escrow determined by the Commission equal to the estimated additional costs.

#### **SECTION 20.6 REVIEW FOR COMPLETENESS**

- A. The Zoning Administrator shall provide an initial review of the Special Land Use Permit application to insure it is complete, and contains all of the elements required by the standards of this Ordinance.
- B. If the application is found to be incomplete, the Administrator shall return the application to the applicant with a list of items needed to make the application complete.
- C. If the application is found to be complete, the Administrator shall notify the Chairperson of the Commission, perform a written staff review of the application, and distribute the application, site plan and other materials to the Commission.
- D. Applications for uses that qualify for Abbreviated Site Plan Review, (as determined in Article 19 or in the zoning district) will be noticed for Public Hearing and review at the first Commission meeting that meets the noticing requirements.
- E. Applications for uses that require a Detailed Site Plan Review, (as determined in Article 19 Site Plan Review or in the zoning district) will be placed on the next available Commission Meeting Agenda for preliminary consideration. Following preliminary consideration, if the Commission is satisfied with the data submitted the Commission shall set a date for a public hearing on the special land use application.
- F. Public Hearings shall be noticed per Section 23.3.3 Notices.

#### **SECTION 20.7 COORDINATION WITH OTHER AGENCIES**

The Applicant is responsible for obtaining any and all permits or approvals from other agencies. Applicants are encouraged to submit projects to agencies for review and/or approval prior to submitting an application for a Special Land Use Permit. The Commission during deliberation of the Special Land Use Permit may require an Applicant to obtain an agency permit or approval prior to, or as a condition of, the Special Land Use Permit if it is determined that the agency approval or permit is needed to satisfy one or more of the Governing Standards.

#### **SECTION 20.8 GOVERNING STANDARDS**

In deciding to grant or to deny a special land use application, the Commission shall establish that the following standards shall have been satisfied, together with all other requirements of the Ordinance. The standards enumerated herein are intended to promote the intent and purpose of the Ordinance and to ensure that the land use or activity authorized shall be compatible with the zoning district, the adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed land use. These standards shall ensure that the

proposed land use or activity is consistent with the public health, safety and welfare of the Township.

Each of the proposed special land uses on the proposed location shall:

- A. Meet all the specific requirements of the particular special land use contained in the zoning district for which the special land use is proposed.
- B. Be designed, constructed, operated and maintained so that such use will not change the essential character of the zoning district and surrounding vicinity in which it is proposed.
- D. Be served adequately by essential public facilities and services, including but not limited to highways, streets, off-street parking, police, fire protection, drainage district, refuse disposal, water and sewage facilities, schools, etc.
- E. Not unduly burden the capacities, or negatively impact public services and facilities affected by the proposed special land use, nor result in excessive additional public cost for the creation of facilities and services not otherwise available.
- F. Not adversely affect the natural environment, especially any creek, stream, lake, pond, wetlands area, floodplain or the groundwater.
- G. Not adversely affect farmland or farming operations, but to the extent practicable preserve it as open space or provide adequate buffering between the special land use and farmland.
- H. Demonstrate in the site plan that there exists sufficient protection to ensure that there will be no additional storm water runoff created by the proposed special land use; or that adequate and full measures have been taken to accommodate such storm water runoff on the proposed site location. For purposes of this standard the receipt of a Soil Erosion permit or Drain Commissioner's review shall satisfy this requirement.
- I. Provide that the special land use including off-street parking, loading and unloading areas, outside storage areas, and areas for the storage of trash, which face or are visible from neighboring property or public thoroughfares, shall be screened in accordance with Section 3.12 Landscaping, Greenbelts, Buffers, Screen, and Fences.
- J. Conform to the requirements of Section 3.18 Outdoor Lighting Standards.
- K. Not be hazardous to adjacent or neighboring properties, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or to adjacent and neighboring properties, through the excessive production of traffic, noise, smoke, odor, fumes, or glare.
- L. Be in compliance with the requirements of the district in which it is proposed and with all

other standards in this Ordinance, as well as with the requirements of the County Road Commission, County Building Inspector, County Drain Commissioner, District Health Department, Leelanau County Soil Erosion Control Officer, Suttons Bay/Bingham Fire Department, DNR, and other applicable Township, County, State, and Federal statutes.

## **SECTION 20.9 CONDITIONS AND SAFEGUARDS**

Additional conditions and safeguards may be imposed by the Commission if reasonable, and necessary to protect the natural environment or to conserve natural resources or energy, to ensure compatibility with, and to protect adjacent and neighboring properties, to promote the use of the land in a socially and economically desirable manner, and to ensure that public services and facilities affected by the proposed land use or activity will be capable of accommodating the increased activity.

Any conditions so imposed shall meet the following requirements:

- A. To the extent possible, any condition should be designed to avoid conflict, wherever possible, with the approved master plan.
- B. Be designed to protect natural resources, including but not limited to modification of setback requirements and limitations on the area to be developed.
- C. Be designed to protect the health, safety and welfare of those who will be using the proposed special land use or activity under consideration, or those affected by the special land use.
- D. Be designed to protect Township residents, and adjacent and neighboring properties to the proposed special land use or activity, including but not limited to requirements such as screening, or the erection of natural or artificial barriers, setbacks, or limitations on the time of any activities, including construction, may occur.
- E. Be necessary to meet the intent and purposes of this Ordinance, and be related to the standards established for the land use activity under consideration, and be necessary to ensure compliance with those standards.
- F. Be necessary to ensure compliance with any part of the application received and approved by the Commission.
- G. Be approved as part of the special land use permit.

## **SECTION 20.10 VARIANCES**

Where the applicant is dependent upon the grant of any dimensional variances by the Zoning Board of Appeals (“ZBA”), said favorable action by the ZBA shall occur before a special land use permit is granted and site plan approval given. An approved site plan shall include a note referencing the case number and date of all variances granted.

**SECTION 20.11 APPROVAL AND COMPLIANCE**

- A. The Commission shall approve the special land use application, and the site plan if, after the public hearing(s) on the application for a special land use permit and site plan, the Commission determines that
  - 1. The Application meets the governing standards for approval, and;
  - 2. There are no further conditions or safeguards to be imposed, and;
  - 3. The request is otherwise in compliance with this Ordinance and any other applicable ordinances, and with State and Federal statutes.
  
- B. In the event that the Commission determines that the application fails to establish a sufficient basis for granting a special land use permit, the same shall be denied, and the reasons for denial shall be set forth in writing in the determination made by the Commission.
  
- C. Upon approval of the Commission, and satisfying any conditions imposed by the Commission, a special land use permit shall be issued by the Zoning Administrator.

**SECTION 20.12 REAPPLICATION**

No application for a special land use permit which has been denied wholly or in part by the Commission shall be resubmitted until the expiration of one-hundred-twenty (120) days from the date of denial, except on grounds of newly discovered evidence or proof of changed conditions.

**SECTION 20.13 BINDING EFFECT**

Any special land use permit approved by the Commission pursuant to the provisions of this Ordinance shall be binding between the parties, and said use shall not be substantially modified, altered, expanded or otherwise changed, except as otherwise provided in this Article. Further, such conditions shall run with the land, and be binding on the land owner, their successors, heirs, and assigns.

If at any time during the existence of the Special Land Use Permit(s), the lot(s) and/or structures are used contrary to the conditions and provisions of the permit, the Special Land Use Permit may be revoked by the Commission after a review at a Public Hearing.

**SECTION 20.14 INSPECTIONS**

The Zoning Administrator shall be responsible for the inspection, at various and critical stages of construction of the improvements involved in the special land use, in order to determine the project's conformance to the approved site plan as well as compliance with the terms and conditions of the special land use permit. The Zoning Administrator shall report periodically to the Commission on progress being made, and shall notify the Commission in writing of any failure on the part of the applicant to meet the requirements of the site plan and special land use permit, and report on steps being taken to ensure compliance.



**SECTION 20.15 AMENDMENTS TO APPROVED SPECIAL LAND USE PERMIT**

- A. Major Changes: An application may be considered to amend an existing special land use permit, and shall be processed in the same manner as the original special land use application as described by this Article 20. Any changes to a the terms of an approved special land use permit which are not considered as minor changes as provided in “B,” below are to be processed as major changes.
  
- B. Minor Changes: By mutual agreement between the Township and applicant, minor, non-substantive changes may be made to an existing approved special land use permit. Minor changes to an approved special land use permit shall be permitted only under the following circumstances:
  - 1. The owner of property for which a special land use permit has been approved shall notify the Zoning Administrator of any desired minor change to the approved special land use permit. Minor changes may only be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the minimal dimensional and other design standards of the special land use permit, and any specified conditions imposed as part of the original special land use permit approval. Minor changes shall include the following:
    - a. Reduction of the size of any building, lot and/or sign.
    - b. Movement of lot lines within a development, so long as they do not:
      - i. decrease overall open space.
      - ii. increase the size of a lot more than ten (10) percent.
      - iii. increase number of lots.
    - c. Movement of buildings and/or signs by no more than ten (10) feet provided the movement meets the dimensional setback or building footprint for the appropriate zoning district or as otherwise approved by the Commission or the ZBA for the site plan.
    - d. Landscaping approved on the site plan that is replaced by similar landscaping to an equal or greater extent.
    - e. Changes in floor plans that do not exceed five (5) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
    - f. Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.

- g. Changes related to subsections (a) through (e) above, required or requested by state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval.
- 2. All amendments to a special land use permit approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the Applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.

## **ARTICLE 21 NONCONFORMITIES**

(Annotation: Article amended in its entirety by Amendment 16-004, effective February 24, 2017)

### **SECTION 21.1 INTENT**

It is the purpose of this Section to permit the continuance of the lawful use of any parcel, structure, or use existing at the effective date of this Ordinance or of any amendments, although such uses of lots or structures may not conform to the provisions of this Ordinance. The protection of private property rights and the continuance of nonconforming situations will be maintained through the provisions of this Section.

### **SECTION 21.2 CHANGE OF TENANCY OR OWNERSHIP**

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, buildings or structures, or premises, provided there is no change in the nature, size, scope or character of such nonconforming uses, other than what is provided for within this Ordinance.

### **SECTION 21.3 NONCONFORMING PARCELS**

A nonconforming parcel is that which does not conform to the district's area, width, or depth requirements. Any nonconforming parcel legally created on or before the date of this Ordinance or any applicable amendment, may be used for any purpose authorized within the district in which it is located. All setbacks and dimensional regulations within the Area shall be met, except when a variance is granted pursuant to the procedures and standards of this Ordinance.

### **SECTION 21.4 NONCONFORMING STRUCTURES: REPAIRS AND MAINTENANCE**

Nothing in this Ordinance shall prevent the repair, reinforcement, improvement or rehabilitation of nonconforming buildings, structures, or parts thereof existing at the effective date of this Ordinance or any applicable amendments, rendered necessary by wear and tear, deterioration or depreciation; nor prevent compliance with the provisions of the P.A. 230 of 1972, as amended, (being the Stille-Derossett-Hale Single State Construction Code Act, M.C.L. 125.1501 et. seq.), relative to the maintenance of buildings or structures.

### **SECTION 21.5. NONCONFORMING STRUCTURES: REPLACEMENT, ALTERATION OR EXPANSION**

- A. Any nonconforming building or structure whose use conforms to the requirements of this Ordinance may be altered or expanded, so long as such alterations or expansions are themselves in conformance with the setbacks of the zoning district in which they exist and with all other requirements of this Ordinance.
- B. Nonconforming structures, with the exception of non-enclosed structures (such as decks), may be expanded in height up to the limits allowed in this ordinance.
- C. Replacement of a nonconforming building or structure is permitted in the size, shape and footprint of the structure being replaced except where such nonconforming structure is abandoned as described in Section 21.7.

- D. No building damaged by fire, act of God or other causes to the extent that the damage is total (i.e. the insurance coverage, if it existed, would pay the full amount insured) shall be repaired or rebuilt, except
1. in conformity with the non-use provisions of this Ordinance; and in conformity with the permitted and/or special use provisions of this Ordinance, or
  2. reconstruction, repair or restoration of the original use shall be completed within one (1) year following the damage and resumption of use takes place within ninety (90) days of completion. The Zoning Administrator may grant an extension after a written request of the property owner is received and if one of the following conditions exist:
    - a. The delay was not avoidable due to weather;
    - b. The delay was a result of a criminal investigation;
    - c. The delay was a result of a dispute between the owner and an insurance company concerning what is covered by insurance, or
    - d. Property held in probate.

#### **SECTION 21.6 NONCONFORMING USE: REPLACEMENT OR EXPANSION**

- A. Replacement of the same nonconforming use in a building or structure is permitted in the size, shape and footprint of the structure being replaced except where abandoned as described in Section 21.7.
- B. A nonconforming use shall not be increased in land area to be more than the existing nonconforming use, except as otherwise permitted by this Section.
- C. Change in use may be permitted by the Planning Commission after holding a Public Hearing, if the proposed change meets the following standards:
1. Existing use was lawful at the time of its inception (i.e. legal nonconforming use);
  2. Will not adversely affect surrounding properties;
  3. Will not change the character of the district in which it is located;
  4. Will not adversely affect the natural environment, especially any creek, stream pond, lake, wetland area, floodplain or groundwater;
  5. Shall comply with any conditions imposed by the Commission that are necessary to ensure that the proposed change in use will not prove detrimental to the adjacent properties, the neighborhood, or the community.

#### **SECTION 21.7 NONCONFORMING USE OR STRUCTURE: ABANDONMENT**

If a property owner has intent to abandon a nonconforming use or structure and in fact abandons this nonconforming use or structure for a period of one (1) year or more, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance.

- A. When determining the intent of the property owner to abandon a nonconforming use or structure, the Administrator shall consider the following factors:

1. Whether utilities, such as water, gas, and electricity to the property have been disconnected;
2. Whether the property, buildings, and grounds have fallen into disrepair;
3. Whether signage or other indications of the existence of the nonconforming use have been removed;
4. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed;
5. Whether U.S. mail deliveries have been terminated or forwarded to another address;
6. Whether the classification of the property for tax purposes has been changed to reflect another use;
7. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure;
8. Whether permits have been obtained to reconstruct a nonconforming structure or use.

B. Action to find a nonconforming use was intended to be discontinued by the owner may be delayed if any of the following is ongoing:

1. Property held in Probate;
2. Insurance settlement in dispute; or
3. Criminal investigation.

**Article 22**  
**Open**

**ARTICLE 23**  
**ADMINISTRATION AND ENFORCEMENT**

(Annotation: Article amended in its entirety by Amendment 16-004, effective February 24, 2017)

**SECTION 23.1 ADMINISTRATION**

The Township Supervisor, with Board approval, shall appoint the Zoning Administrator. The Township Supervisor, with Board approval, shall appoint a temporary Zoning Administrator to act, with full authority, under the following circumstances:

- A. The Zoning Administrator has a direct interest in the construction of any building or in any land use for which application has been made for a land use permit.
- B. The Zoning Administrator is temporarily incapacitated and unable to perform his duties.

**SECTION 23.2 ZONING ADMINISTRATOR**

The Zoning Administrator is the administrative and enforcement officer of the Township. He/she shall perform such duties as the Township Board may prescribe, in addition to any duties set forth in this Ordinance.

**SECTION 23.2.1 APPOINTMENT**

The Township Supervisor, with Board approval, shall appoint the Zoning Administrator.

**SECTION 23.2.2 ELIGIBILITY**

To be eligible for appointment, the Zoning Administrator shall be generally informed on good building construction, on good practice in fire protection, and the proper installation of safety, health and sanitary facilities. The Zoning Administrator shall be in good health and physically capable of fulfilling the duties of his position. The Zoning Administrator shall not be a member of the Township Board, the Planning Commission, or the Zoning Board of Appeals.

**SECTION 23.2.3 LIMITATIONS**

Under no circumstances is the Zoning Administrator to make changes in this Ordinance or to vary its terms in carrying out his duties.

**SECTION 23.3 DUTIES OF THE ZONING ADMINISTRATOR**

**SECTION 23.3.1 INFORMATION**

The Zoning Administrator shall provide information to the public on matters relating to Township zoning, and make available copies of this Ordinance at a price to cover the cost of printing. He shall make available for public inspection all applications for land use permits, variance requests, and written appeals and complaints received, and furnish copies at cost to anyone requesting them.

### **SECTION 23.3.2 APPLICATIONS**

The Zoning Administrator shall accept and process applications for land use permits, requests for rezoning, requests for dimensional variances, requests for zoning ordinance text changes, additions, amendments or other requests, written appeals and complaints received.

(Annotation: Subsection changed by Amendment 01-002 effective March 1, 2001)

### **SECTION 23.3.3 NOTICES**

(Annotation: Section changed by Township Ordinance No. 5 of 2011, effective June 24, 2011)

- A. **Public Notification:** All applications requiring a public hearing or public notice shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended) and the other provisions of this Section with regard to public notification.
  
- B. **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 Suttons Bay Township and deposited during normal business hours for delivery with the U.S. Postal Service or other public or private delivery service, or personally delivered.
  
- C. **Content:** All mail, personal and newspaper notices for public hearings shall:
  1. **Describe the nature of the request:** Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
  2. **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 a zoning amendment, or 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.

D. 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 a zoning amendment, or 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 the Suttons Bay 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 shall 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. Other persons who have requested to receive notice.
2. Notice by mail/affidavit: Notice shall be deemed given by its deposit with the U.S. Postal Service, or other public or private delivery service, or personally delivered during normal business hours.
3. 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.

- E. 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.

(Annotation: Section 15.3.3 changed by Township Ordinance No. 5 of 2011, effective June 24, 2011)

#### **SECTION 23.3.4 INSPECTIONS**

The Zoning Administrator shall conduct inspections and collect such investigative data as is deemed necessary to carry out his duties in the enforcement of this Ordinance, and to assist the Planning Commission and the Zoning Board of Appeals in carrying out their duties. If the Zoning Administrator is refused entry to a property, and if deemed necessary, an administrative search warrant from the court may be sought.

#### **SECTION 23.3.5 RECORD KEEPING**

The Zoning Administrator shall maintain records of the administration and enforcement of this Ordinance, including but not limited to the following:

- A. The Ordinance and all amendments adopted, and an updated Zoning Map. A copy of the updated Map shall be available at the Suttons Bay Township Office.
- B. A file of all parcels of land incurring zoning activity. Parcels shall be identified and filed by property tax number. Each parcel file shall include:
  1. All applications for land use permits and their denial or approval and subsequent history.
  2. Variance requests and appeals and action taken by the Zoning Board of Appeals.
  3. Citations for violation of this Ordinance and the action taken.
  4. Affidavits of notices mailed.
- C. Annual and monthly written reports to the Board, with a copy to the Planning Commission.

#### **SECTION 23.3.6 ENFORCEMENT**

The Zoning Administrator shall initiate appropriate action to prevent, restrain, correct, or abate any illegal act or violation of this Ordinance.

#### **SECTION 23.4 LAND USE PERMITS**

##### **SECTION 23.4.1 TOWNSHIP LAND USE PERMITS**

Any individual, partnership, corporation, association, officer, department, board, or bureau of the State, County, or Township, planning to move or erect a building or

structure, or alter any existing structure or mobile home to the extent of more than one hundred (100) square feet of floor area, or replace a mobile home as a dwelling by another mobile home, or to establish a new use for any lot, shall obtain an approved land use permit prior to such action from the Zoning Administrator. Application for this permit shall be made with the Zoning Administrator on a form/application provided by the Township. Erecting a sign may also require a permit. (See Section 3.17 Signs) Septic systems are excepted, and do not require a land use permit. Lot and boundary line fences are fully excepted.

#### **SECTION 23.4.2 REGULAR LAND USE PERMITS**

- A. Applications for permits for land uses not classified in the Ordinance as special land uses, nor as land uses permitted only after a public hearing, shall be submitted to the Zoning Administrator for his approval. Four (4) copies shall be provided, including plot plans and supporting material, for the Zoning Administrator, the Township file, the Assessor, and one to be returned to the applicant, signed by the Zoning Administrator and indicating approval or disapproval. The permit, having been signed by the Zoning Administrator and by the applicant, shall constitute an agreement between the applicant and the Township that all the requirements of the permit and of this Ordinance will be met.
  
- B. Applications shall include:
  - 1. Proof of ownership of the property in question.
  - 2. The property tax number or a legal description of the property.
  - 3. A plot plan acceptable to the Zoning Administrator, showing:
    - a. The length and width of the lot.
    - b. Dimensional size and location of all structures to be erected.
  - 4. A Health Department permit, if the proposed development requires a well or sewage disposal system.
  - 5. A driveway permit from the Leelanau County Road Commission if applicable.
  - 6. Any other information deemed necessary by the Zoning Administrator to determine compliance with this Ordinance, and to provide for its enforcement.
  
- C. Regular Land Use Permits shall be valid for a period of one (1) year from the date the permit is issued.

1. Permits may be extended for an additional one (1) year by the Zoning Administrator upon written request from the Permit Holder.
2. The Regular land Use Permit shall become invalid if the authorized work has not reasonably progressed within one (1) year after issuance of the permit, unless extended by the Zoning Administrator.

#### **SECTION 23.4.3 SPECIAL LAND USE PERMITS**

Applications for special land use permits shall be submitted to the Planning Commission through the Zoning Administrator. See Article 20 Special Land Use permits and Article 19 Site Plan Review.

#### **SECTION 23.4.4 LAND USE PERMITS CONDITIONAL UPON A HEARING**

Where a land use is permitted with conditions, and one of those conditions is a hearing conducted by the Commission, which then approves or disapproves the application, the application must be submitted to the Commission through the Zoning Administrator. Thirteen (13) copies shall be provided, including plot plans as described in Section 23.4.2 Regular Land Use Permits (above), for the nine Commissioners, the Zoning Administrator, the Township file, the Assessor, and one to be returned to the applicant with an indication of approval or disapproval, signed by the Chairman of the Planning Commission.

The permit, having been signed by the Commission Chair and by the applicant, shall constitute an agreement between the applicant and the Township that all the requirements of the permit and of this Ordinance will be met.

Applications shall include:

- A. Proof of ownership of the property in question.
- B. The property tax number and a legal description of the property.
- C. A site plan drawn to a minimum scale of one inch equals fifty feet (1"=50'), showing:
  1. The boundaries of the lot, its width and depth.
  2. Existing and intended uses, including location, size and height, and number of stories, of all structures existing or to be erected, with setbacks noted.
  3. Location of water supply and septic systems.
  4. Any change in the contour of the parcel.

5. Driveway and parking areas.
  6. The centerline(s) of any road(s).
  7. Location of any easements.
  8. The Commission may require the property to be located by a registered surveyor, in cases where property boundaries are not clearly indicated by corner markers or other means.
- D. A Health Department permit, if the proposed development requires a well or sewage disposal system.
  - E. A driveway permit from the Leelanau County Road Commission if applicable.
  - F. Any other information deemed necessary by the Commission to determine compliance with the Ordinance, and to provide for its enforcement.

#### **SECTION 23.4.5 TEMPORARY USE PERMITS**

The Zoning Administrator is authorized to issue a temporary land use permit for temporary uses, as follows:

- A. Carnival, Circus, or Fair, for a period not to exceed seven (7) days.
- B. Open Lot Sale of Christmas Trees, for a period not to exceed forty-five (45) days.
- C. Real Estate Sales Office, for lots or units on the premises and for a period not to exceed one (1) year, provided no cooking or sleeping accommodations are maintained in the structure.
- D. Contractor's Office and Equipment Sheds, for the development on the parcel and for a period not to exceed one (1) year, provided that such office be placed on the property to which it is appurtenant.

#### **SECTION 23.5 FAILURE TO PASS INSPECTION**

##### **SECTION 23.5.1 WARNING**

Should the Zoning Administrator determine that the building or structure is not located according to the site and construction plans filed, or is in violation of any provisions of this Ordinance, or of any other applicable law, he shall so notify, in writing, the holder of the permit. Further construction shall be stayed until correction of the defects set forth has been accomplished, and upon notice and request for re-inspection by the applicant, inspections have been completed and written approval given.

### **SECTION 23.5.2 CANCELLATION OF PERMIT**

Should the holder of a land use permit fail to comply with the requirements of the Zoning Administrator at any inspection stage, the Zoning Administrator shall cause notice of cancellation of the permit to be securely and conspicuously posted upon or affixed to the land use not conforming to the Ordinance requirements, the same being sent by first class mail to the address provided to the township by the applicant when he, she, or it filed the original application for land use permit. Such posting shall be considered as serving notice of cancellation to the permit holder. No further activity in such use shall be undertaken or permitted until such time as the requirements of this Ordinance have been met. Failure of the permit holder to properly notify the Zoning Administrator of the time for an inspection shall automatically cancel the permit, requiring issuance of a new permit before the land use may proceed.

### **SECTION 23.5.3 VOIDING OF PERMIT**

- A. Any land use permit granted under this Ordinance shall be null and void unless the property is developed as proposed, within one (1) year. The Zoning Administrator shall notify the holder of the permit at least thirty (30) days prior to the expiration of the one year period, and before voidance of the permit is actually declared. Permits may be extended for up to one (1) additional year by the Zoning Administrator upon the written request from the permit holder.
  
- B. The Zoning Administrator may suspend or revoke a permit issued in error or on the basis of incorrect information supplied by the applicant or his agent, or which is in violation of any of the ordinances or regulations of the Township.

### **SECTION 23.6 VIOLATIONS**

#### **SECTION 23.6.1 REPORTS OF VIOLATION**

Violations observed by residents of the Township may be reported to the Zoning Administrator to be investigated. This need not be in writing. The Zoning Administrator should keep the names of such residents confidential.

#### **SECTION 23.6.2 NOTICES OF VIOLATION**

Whenever the Zoning Administrator determines that a violation of this Ordinance exists, he shall issue a notice of violation. Such notice shall be directed to each owner or party in interest in whose name the property appears on the last local tax assessment records.

#### **SECTION 23.6.3 SERVING OF NOTICE**

All notices shall be in writing and shall be served upon the person to whom they are directed personally or, in lieu of personal service, may be mailed by regular mail, addressed to such owner or party in interest at the address shown on the tax records. An affidavit of mailing should be kept on file.

**SECTION 23.6.4 CORRECTION OF VIOLATIONS**

All violations shall be corrected within thirty (30) days following the date of issuance of written notice to correct.

**SECTION 23.6.5 PROSECUTION OF UNCORRECTED VIOLATIONS**

If steps have not been taken to correct the violation(s), they shall be referred for prosecution to the Township's attorney, who may institute injunction, mandamus, abatement, or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any unlawful erection, maintenance, or use.

**SECTION 23.7 PENALTIES**

Any person, firm, association, corporation or other entity who or which shall violate any provision of this Ordinance in any particular, or who fails to comply with any of the regulatory measures or conditions imposed by the Board of Appeals or the Planning Commission pursuant to this Ordinance or otherwise pursuant to Michigan law shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine for each violation in accordance with the schedule set forth herein, along with costs which may include all expenses, direct and indirect, to which the township has been put in connection with the municipal infraction. Costs of no more than \$500 shall be ordered. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance. Provisions of this Ordinance may also be enforced by suit for injunctive relief.

Civil Fines for Municipal Infractions

Unless otherwise provided elsewhere within this Ordinance for specific violations, Civil Fines for municipal civil infractions shall be assessed in accordance with the following schedule:

	<u>Fine</u>
1st violation	\$100.00
2nd violation within 3-year period	\$250.00
3rd violation within 3-year period	\$500.00
4th or subsequent violation within 3-year period	\$1000.00

**SECTION 23.8 APPEARANCE TICKETS AND MUNICIPAL CIVIL INFRACTION CITATIONS**

As provided for in the Suttons Bay Township Municipal Civil Infraction Ordinance, the Suttons Bay Township Supervisor, the Suttons Bay Township Zoning Administrator and the Suttons Bay Township Attorney, are hereby authorized to investigate violations of this ordinance, and to issue and serve appearance tickets and citations, including municipal civil infraction citations, pursuant to MCL 764.9c, MCL 600.8701 and MCL

600.8707, on all persons in violation of this Zoning Ordinance. Such appearance tickets and/or citations shall be issued and served in accordance with applicable Michigan law.

### **SECTION 23.9 FEES**

All fees for inspections and land use permits, zoning amendments and variances, shall be collected by the Zoning Administrator, and turned over to the Township's general fund. A schedule of fees shall be established by resolution of the Township Board, and shall be in an amount adequate to defray the cost of inspections and supervision, including necessary paperwork, and the publication of notices.

### **SECTION 23.10 DECLARATION OF A ZONING MORATORIUM**

Notwithstanding any other provision of this Zoning Ordinance, the Township Board may, by resolution, declare a moratorium on the issuance of any permit under this ordinance, the processing of any permit application hereunder, the processing of any rezoning request, the processing of any site plan review, special land use request, or the processing of any other application made under this zoning ordinance. Such a moratorium may be declared by the Township Board only under the following conditions:

- A. The Township Board finds, based on facts appearing in the public record before it, that such a moratorium is necessary to protect the public health, safety and welfare and that no other action short of imposing a moratorium can adequately protect the public health, safety and welfare;
- B. The moratorium is for a limited period of time, not to exceed six (6) months, but may be extended for no more than one (1) additional six (6) month period upon a new and separate findings of fact required under subsection 1 above;
- C. The moratorium is limited in its scope and area of application so as to only affect those matters and that area necessary to protect the public health, safety and welfare;
- D. The resolution declaring the moratorium shall be published in a newspaper of general circulation within the Township;
- E. The resolution declaring the moratorium shall specify the effective date of such moratorium which may be the date of publication or another date following such publication; and
- F. The resolution declaring the moratorium shall be adopted by a vote of a majority of the five (5) members of the Township Board.



## **ARTICLE 24**

### **ZONING BOARD OF APPEALS**

(Annotation: Article amended in its entirety by Amendment 16-004, effective February 24, 2017)

#### **SECTION 24.1 ESTABLISHMENT**

A Zoning Board of Appeals (“ZBA”) is hereby retained, in accordance with P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.), hereinafter referred to as the “Zoning Act”

#### **SECTION 24.2 MEMBERSHIP**

- A. There shall be five (5) members and a first and second alternate member on the ZBA, appointed by the Township Board as follows:
1. The first member of the ZBA shall be a member of the Planning Commission.
  2. The remaining members of the ZBA shall be selected from electors of the Township. The membership must be representative of the population and interests present in the Township. One member may be a member of the Township Board, but such member may not serve as chair of the ZBA.
  3. The ZBA shall not conduct business unless a majority of the members are present.
- B. Alternate members shall serve as regular members:
1. In the absence of a regular member.
  2. For the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest.
  3. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the ZBA.

#### **SECTION 24.3 TERMS OF OFFICE**

The term of each member of the ZBA is three (3) years. The terms shall be staggered. The term of the member of the Planning Commission or Township Board shall not extend beyond their term. A successor must be appointed to any vacancy within one (1) month. Vacancies for unexpired terms shall be filled for the remainder of the term.

#### **SECTION 24.4 COMPENSATION**

Members of the ZBA shall receive such compensation as determined from time to time by the Township Board, and be reimbursed for reasonable expenses incurred.

## **SECTION 24.5 RULES OF PROCEDURE, MAJORITY VOTE, MEETINGS AND RECORDS**

### **SECTION 24.5.1 RULES OF PROCEDURE**

The ZBA shall adopt rules and regulations to govern its procedures, and shall elect a Chairperson.

### **SECTION 24.5.2 MAJORITY VOTE**

The concurring vote of a majority of the members of the ZBA shall be necessary to revise any order, requirement, decision or interpretation of the Zoning Administrator; to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance; or to effect any variance in this Ordinance.

### **SECTION 24.5.3 MEETINGS**

Meetings of the ZBA shall be held at the call of the Chairperson, and at such other times as the ZBA may specify in its rules of procedure. All meetings shall be open to the public.

### **SECTION 24.5.4 RECORDS**

Minutes shall be kept of each meeting, and the ZBA shall record into the minutes all of its official actions, all findings, conditions, facts, and other relevant factors, including the vote of each member upon each question (or if absent or failing to vote, an indication of such fact). All records shall be open to the public. All minutes shall be filed with the Township Clerk.

## **SECTION 24.6 DUTIES AND POWERS**

The ZBA shall perform its duties and exercise its powers so that the objectives of this Ordinance shall be attained, the public health, safety and welfare secured, and substantial justice done. The ZBA is empowered to act upon the matters described in Section 24.7 through 24.9, below, as well as those matters referred to the ZBA under the Zoning Act, and upon no others.

## **SECTION 24.7 INTERPRETATION**

- A. The ZBA, upon request, shall interpret unclear language in the Ordinance.
- B. It shall determine the precise location of boundary lines between zoning districts, where uncertainty exists, including interpretation of the Zoning Map.

## **SECTION 24.8 ADMINISTRATIVE REVIEW/APPEALS**

- A. A demand for a zoning appeal is received by the zoning administrator. Appeals can be filed by:
  1. a person aggrieved, or

2. an officer, department, board, or bureau of the state or local unit of government.
- B. The ZBA shall hear and decide appeals from, any administrative orders, requirements, decision or determinations made by an administrative official or body charged with enforcement of the zoning ordinance.
- C. The ZBA shall have the authority to hear appeals regarding decisions concerning site plan review except for Special use Permits and Planned Unit Developments as outlined in Section 19.7.B Authority and Limitations.

## **SECTION 24.9 VARIANCES**

The ZBA may grant dimensional variances from the strict and literal enforcement of the provisions of this Ordinance. Practical difficulties unique to the property in question must be demonstrated before a variance is granted. Listed below are the standards to be applied:

- A. Standards for Variance. Listed below are the five standards to be applied:
1. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography as compared with other properties in the zoning district. The need for variance shall not be due to the applicant's personal or economic difficulty.
  2. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).
  3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
  4. That the requested variance is necessary to do substantial justice to the applicant as well as to other property owners in the district.
  5. That the requested variance will not cause an adverse act on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.
- B. Lesser Variance. The ZBA may grant a lesser variance than that applied for if it would give substantial relief to the owner of the property and be more consistent with justice to other property owners.

- C. Conditions. The ZBA may grant a variance with conditions necessary to comply with the intent of this Ordinance.

#### **SECTION 24.10 NO USE VARIANCES**

Under no circumstances shall the ZBA grant a variance to allow any use expressly or by implication prohibited by the terms of this Ordinance in the zoning district in which the variance is to be located.

#### **SECTION 24.11 PROCEDURE FOR APPEALS AND VARIANCE REQUESTS**

##### **SECTION 24.11.1 FILING**

- A. Upon receipt of a demand for appeal, interpretation or variance, the Zoning administrator will review the demand for appeal to insure it is complete and that the fee is paid.
  - 1. If the application is not complete, the Zoning Administrator will return the application to the applicant with a letter that specifies the additional material required.
  - 2. If the application is complete, the Zoning Administrator and chair of the ZBA shall establish a date to hold a hearing on the appeal.
- B. Ten (10) copies of all appeals and requests for variances shall be filed in writing through the Zoning Administrator, who shall transmit copies to the members of the ZBA.
- C. A site plan of the subject property in question, showing all the salient features of the proposed project, shall accompany the appeal or variance request being filed. It shall be drawn to scale sufficient to illustrate the requested variance, showing structures and lot lines in question and other pertinent features.
- D. The notices of hearing shall be given in accordance with Section 23.3.3. Notices.
- E. Upon the hearing, any party or parties may appear in person or by agent or by attorney.

##### **SECTION 24.11.2 DECISIONS**

- A. If request for appeal is a variance, the ZBA shall grant, grant with conditions, or deny the application. The ZBA may reverse or affirm, wholly or partly, or modify an administrative decision.

- B. APPEALS: All appeals shall be made within sixty (60) days from the date of any decision constituting the basis of appeal. The ZBA shall hold a hearing within a reasonable amount of time after an appeal is filed. Upon hearing such an appeal, the ZBA may affirm, change or modify the ruling, decision or determination or, in lieu thereof, make such other or additional determination as it shall deem proper under the circumstances. The ZBA shall render its decision in writing, with grounds for its decision stated. An appeal shall stay all proceedings in furtherance of the action appealed, unless the Zoning Administrator certifies to the ZBA that a stay would in his opinion cause imminent peril to life or property, in which case the proceedings should not be stayed, other than by a restraining order by the courts.
- C. VARIANCES: The ZBA shall hold a hearing within a reasonable amount of time after a variance request is filed. The ZBA shall render its decision in writing, with grounds for its decision stated. The ZBA has the right to impose an expiration on a granted variance.
- D. REAPPLICATION: No application for a variance which has been denied shall be resubmitted within one hundred eighty (180) days from the last date of denial unless there has been a change in circumstances.

### **SECTION 24.11.3 NOTICES**

Notices of meetings of the ZBA shall be given as described in Section 23.3.3 Notices, in Article 23 Administration and Enforcement.

### **SECTION 24.12 CONDUCT OF MEETINGS**

- A. Copies of variance requests and appeals under consideration, and of the accompanying plot plans, should be made available to the public in attendance.
- B. A ZBA public hearing takes place during a ZBA meeting which is subject to the Open Meetings Act (P.A. 267 of 1976, as amended). The hearing continues until the chairperson is satisfied that everyone present has had an opportunity to be heard at which the time the public hearing is closed to further public input. The ZBA may then deliberate on the question before them and make a decision, or they may postpone action to a later meeting.

### **SECTION 24.13 JUDICIAL REVIEW**

As provided in MCL 125.3605, the decision of the ZBA shall be final. A party aggrieved by the decision may appeal to the circuit court for the county in which the property is located as provided in the Zoning Act M.C.L. 125.3606.

## **ARTICLE 25 AMENDMENTS**

(Annotation: Article amended in its entirety by Amendment 16-004, effective February 24, 2017)

### **SECTION 25.1      REQUEST AND FEES**

The Township may from time to time, amend or supplement the text of the Ordinance or Zoning Map whenever the public necessity and the general welfare require such amendment. Said amendment may be initiated by resolution of the Township Board, the Planning Commission, or by petition of one or more property owners. Except for the Township Board, or the Planning Commission, the petitioner or petitioners requesting an amendment shall at the time of application pay a filing fee as set from time to time by the Township Board.

### **SECTION 25.2      REZONING**

In reviewing an application for the rezoning of land, whether the application is made with or without an offer of conditions, factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following:

- A. The proposed rezoning is consistent with the surrounding uses.
- B. There is no adverse physical impact on the surrounding properties.
- C. There is no adverse effect on property values in the adjacent area.
- D. There have been changes in land use or other conditions in the immediate area or in the community which justify the rezoning.
- E. Rezoning will not create a deterrent to the improvement or development of the adjacent properties in accordance with existing regulations.
- F. Rezoning will not grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public.
- G. There are substantial reasons why the property cannot be used in accordance with its present zoning classification.
- H. The rezoning is not in conflict with the planned use for the property as reflected in the master plan.
- I. If rezoned, the site will be served by adequate public facilities.
- J. There are no sites nearby that are already properly zoned and that can be used for the intended purposes.

## **SECTION 25.3      CONDITIONAL REZONING**

### **SECTION 25.3.1    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 Michigan Zoning Enabling Act; P.A. 110 of 2006 (as amended), specifically M.C.L. 125.3401(3), by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

### **SECTION 25.3.2    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. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- E. 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.
- F. 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 by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
- G. 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 the Ordinance.
- H. 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.

### **SECTION 25.3.3 PLANNING COMMISSION REVIEW**

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 25.4 Rezoning 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 25.3.4 TOWNSHIP BOARD REVIEW**

After receipt of the Planning Commission's recommendation, 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 Section 25.4 Rezoning 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 Michigan Zoning Enabling Act; P.A. 110 of 2006 (as amended), specifically MCL 125.3401(3), 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 25.3.5 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 Register of Deeds of the County in which the subject land is located 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 may be recorded by the Township with the Register of Deeds of the County in which the land referenced in the Statement of Conditions is located.
  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 Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
- D. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds of the County in which the land is located. 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 25.3.6 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 25.3.7 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 eighteen (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 25.3.8 REVERSION OF ZONING**

If commencement of the approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection 25.3.7 Time Period for Establishing Development or Use above, then the land shall revert to its former zoning classification as set forth in M.C.L. 125.3405. The reversion process shall be initiated by either the Planning Commission or by the Township Board requesting that the Planning Commission make a determination that the conditions for the conditional rezoning were not met.

- A. Before making such a finding, the Commission shall provide the owner of the property with a notice of its intent to find that one or more conditions of the rezoning have not been met and shall afford the property owner with an opportunity to present evidence to the Commission that commencement of the approved development and/or use of the rezoned land has in fact occurred.
- B. If the Commission shall then make a determination that the approved development and/or use has not met the conditions for the rezoning, it shall find that the land should be rezoned to its former zoning classification, and shall make such recommendation to the Township Board for adoption of a zoning ordinance amendment to that effect.
- C. If there is a request to rezone the land to another zoning classification, the procedure for that consideration shall be the same as applies to all other rezoning requests.

### **SECTION 25.3.9 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 Subsection H 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 Township Clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.

### **SECTION 25.3.10 AMENDMENT OF CONDITIONS**

- A. During the time period for commencement of an approved development or use specified pursuant to Section 25.3.7 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 25.3.11 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; P.A. 110 of 2006 (as amended), specifically MCL 125.3405.

### **SECTION 25.3.12 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.

### **SECTION 25.4 AMENDMENT PROCEDURE**

The procedure for making amendments to the Ordinance shall be in accordance with Public Act 110 of 2006, as amended and as otherwise specified in this Ordinance.

### **SECTION 25.5 RESUBMITTAL**

No application for a rezoning which has been denied by the Township Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions.

**ARTICLE 26**  
**SEVERABILITY, VESTED RIGHT, AND EFFECTIVE DATE**

(Annotation: Article amended in its entirety by Amendment 16-004, effective February 24, 2017)

**SECTION 26.1 SEVERABILITY**

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

**SECTION 26.2 EFFECTIVE DATE**

The provisions of this Ordinance are hereby given immediate effect pursuant to the provisions of P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.271 et seq.) and P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.). This Ordinance shall remain in full force and effective unless repealed.