

# ZONING ORDINANCE

## Centerville Township

Leelanau County, Michigan

EFFECTIVE DATE: April 27, 2023  
AMENDED THROUGH: April 27, 2023

## SCHEDULE OF REVISIONS

DESCRIPTION OF CHANGE	EFFECTIVE DATE
Create Zoning Ordinance	1979
Update entire Ordinance	December 5, 2002
Add schedule of revisions	February 3, 2005
Copy Sec. 4.15 "Completion" to sections 13.4 and 13.7 for clarity	February 3, 2005
Change Sec. 4.15 "Completion" so that the Zoning Administrator can make the determination so that a ZBA request is not necessary.	February 3, 2005
Add footnote to schedule of Zoning Regulations table allowing a 25' min. setback from a private easement for a plotted lake lot.	February 3, 2005
Add a sentence to Site Plan Review allowing the Planning Commission to exempt or exclude one or more requirements that are not necessary/relevant (on a per application basis).	February 3, 2005
Remove reference to \$150 fee in Sec 13.8.	February 3, 2005
Add definition of Site Plan to include all documents including drawings, tables, testing data, etc.	February 3, 2005
State that "set back" is measured from the farthest point of the improvement whether it be the eave, chimney, bay window, etc.	February 3, 2005
Define "living quarters" in definition section.	February 3, 2005
Add lighting Ordinance that regulates lighting in all districts: Section 4.22 Outdoor Lighting Ordinance.	February 3, 2005
Move the contents of Section 13.8 "Septage Disposal" to Article IX Agricultural District, under Section 9.6 "Land Application of Septage Waste As A Special Land Use" for consistency.	February 3, 2005
Change Section 13.7 "Requirements for Site Plan" to Section 13.1 under a new Article: Article XIII Procedures for Site Plan Review.	February 3, 2005
Add an Open Space Ordinance, as a new Section XIV, that applies to all districts and offers density bonuses for retaining open space in large developments.	February 3, 2005
Because there are now new Sections XII and XIV, the old Sections XII, XIV, XV, XVI and XVII all increase in number by two, i.e., the old XVII is now XIX.	February 3, 2005
Make grammatical changes throughout the document.	February 3, 2005
Added "Dog Kennel" to definitions, changed definition of "Height", reduced private easement setback to 20', changed Section 4.14 to comply with the MZEA, revised Section 4.20 to comply with the MZEA, deleted "Kennel" as a use by right in the R-1 District, added Ski View Farms Subdivision to the Residential District, removed Commercial renewable energy windmills and added Wineries to the Ag District Uses Special Land Use permitted by special approval, changed Section 9.6 to say "no new sites", added Section 9.7 Wineries, revised Section 13.1 for compliance to the MZEA, added Sections 15.8 and 15.9, revised Sections 17.2, 17.6, 17.7 and 17.9 to comply with the MZEA.	December 7, 2007
Amended Zoning Ordinance to include regulations governing Driveways and Private Roads.	August 7, 2009
Amended Zoning Ordinance to include regulations governing Commercial Wind Energy Systems including definitions associated with said Systems.	September 10, 2010
Amended Winery Ordinance to increase allowable production from 50,000 gallons to 50,000 cases; increase the allowable wine processing and storage areas from 10,000 SF to 15,000 SF and increase allowable retail sales area from 1,500 SF to 2,500 SF. Corrected several typographical errors.	July 10, 2013
Revised zoning regulation of "800 square foot living quarters per dwelling unit", and changed wording of "Living Area" to "Living Quarters" throughout including in the definition of "Multiple Family Dwelling".	May 27, 2014
Update entire Ordinance	February 21, 2020
Update Section 9.6 "Wineries, Meaderies, Cideries" to include Micro-Breweries.	October 12, 2022
Update Section 13.1 C (b) "Requirements for Site Plan" deleting the first and third sentences which required the Planning Commission to act upon site plans (excluding towers) within 90 days of receipt of a complete Site Plan application.	April 27, 2023

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# Centerville Township Zoning Ordinance

## ***Enabling Clause***

This Ordinance is created to establish land use and building occupancy districts in the Township of Centerville, County of Leelanau, in accordance with the provisions of Act 110 of Public Acts of 2006, as amended; to govern non-conforming land use and building occupancy; to establish the office of Zoning Administrator and a Board of Appeals, and to define their respective duties and authority for the administration of This Ordinance, to define certain terms used herein, to provide for enforcement and to impose penalties for violation of This Ordinance.

## ***Purpose***

To promote the health, safety and general welfare of the inhabitants of the Township of Centerville, County of Leelanau, Michigan, by preventing overcrowding of lands, avoiding undue congestion of population, facilitating transportation, public utilities, and fire safety; and to promote the orderly development of the residential, commercial, recreational, agricultural, and other legitimate interests of said inhabitants; the Township Board of the Township of Centerville, County of Leelanau and State of Michigan, ordains:

## ARTICLE I SHORT TITLE

### **Section 1.1 Title**

The title of this Ordinance is "Centerville Township Zoning Ordinance", and it will be referred to herein as "this Ordinance".

## ARTICLE II DEFINITIONS

### **Section 2.1 Rules Applying to the Text**

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

- A. Words used in the present tense include the future tense, and the singular includes the plural unless the context clearly indicates the contrary.
- B. The word "person" includes a corporation or firm as well as an individual.
- C. The word "building" includes the word "structure".
- D. The word "lot" includes the words "plot", "tract", or "parcel".
- E. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- F. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- G. Any word or term not interpreted or defined by this article shall be used with a meaning of a 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:

**Accessory Building** - A non-habitable building or structure used for the storage of accessories that are customary and incidental to the land use district applicable.

**Accessory Lot** - A small lot or parcel of land, usually separated from the primary residential lot by private road.

**Agricultural Labor Housing** - A structure/parcel and all tents, vehicles, buildings and other structures pertaining thereto which is established, occupied or used as living quarters and licensed under the Michigan Department of Agriculture and Rural Development. If not used for agricultural labor housing, all structures must comply with the provisions of this ordinance.

**Agriculture** - The act or business of cultivating or using land and soils for the production of crops for the use of animals or humans and includes, but is not limited to, purposes related to agriculture, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry, but not including concentrated livestock operations as defined in this

Ordinance. Flower, vegetable, or other gardens maintained only for the property owner(s) non-commercial use and/or enjoyment are not considered agriculture.

**Antenna** - 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.

**Assisted Care Facilities (Foster care facility, Group care home, Assisted living, Nursing home, etc.)** - As defined by the State of Michigan.

**Background sound** - The sound level that exists in the absence of and unrelated to wind turbine sound being evaluated for compliance with this ordinance and includes sounds that would normally be present at least 90 percent of the time. Intermittent noise events such as from aircraft flying over, dogs barking, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road are all part of the ambient noise environment but would not be considered part of the background sound unless they were present for at least 90 percent of the time. In terms of sound measurements, background sound is defined as being the sound level exceeded 90 percent of the time, and it is statistically referred to as  $L_{90}$ . Background sound shall not be measured during sporadic noise events such as seasonal farming activities, events permitted under the Centerville Agritourism Ordinance and/or the Michigan to Farm Act (1981 PA 93, MCL 286.471 et seq.) and applicable Generally Accepted Agricultural and Management Practices, traffic or weather events that would distort the establishment of a baseline level representative of the  $L_{90}$  rural environment.

**Basement** - The lowest level of a building or the one just below the main floor, usually wholly or partially lower than the surface of the ground.

**Bed and Breakfast** - An owner-occupied single family dwelling with bedrooms available for guest use for compensation.

**Blade Glint** - The intermittent reflection of the sun off the surface of the blades of a single or multiple wind energy system.

**Boat House** - Any private structure on lakes or water courses, either temporary or permanent, having a roof and used for the shelter or enclosure of a boat or boats, and the equipment and supplies for such boat or boats. A Boat House, which is permitted only by virtue of the provisions of Section 4.10 (Boat House - GP) of This Ordinance, shall not have living quarters or be used for any purpose other than that stated in this definition.

**Building** - Any structure either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, or personal property of any kind. This shall include vehicles, whether mounted or not on wheels and situated on private property and used for purposes of a building.



**Campground** - A parcel of land upon which five (5) or more campground sites are located, established or maintained for occupancy by recreational vehicles, tents, or other individual camping units by the general public as temporary living quarters for recreational purposes regardless of whether they are public or private or there are fees. Campgrounds are regulated by the Michigan Department of Environment, Great Lakes and Energy.

**Cidery** - A state-licensed facility where agricultural fruit production is maintained; juice is processed into cider; and sold at wholesale or retail to the public with or without the use of a cider tasting facility.

**Clinic** - An establishment where patients who are not lodged overnight are admitted for examination and treatment by a state-licensed healthcare professional or a group of state-licensed healthcare professionals practicing medicine, dentistry, veterinary medicine or osteopathy.

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

**Commercial:** Occupied with or engaged in commerce, or work intended for commerce (i.e., the buying and selling of goods and services).

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

**Commercial Wind Energy System** - A wind energy system that exceeds the maximum thirty (30) kilowatt generator size limit allowed for net metering by the public utility.

**Concentrated Animal Feed Operation** - As defined by United States Department of Agriculture and/or the laws and regulations of the State of Michigan.

**Development** - A planning or construction project involving property improvement and usually a change in land use character within the site. This includes the act of using land for building or extractive purposes.

**Districts** - Shall mean areas of the Township of Centerville for which the Zoning regulations governing the use of building and premises, the height and size of buildings, size of yards, and the intensity of use are uniform.

**Dock** - Any structure, temporary or permanent, built or extending over a body of water, supported by pillars, pilings or other devices.

**Driveway** - An access serving four or fewer residential units or lots, or a maximum of one commercial or industrial use.

**Duplex** - A building containing not more than 2 dwelling units designed or occupied as the homes of 2 families living independently of each other.

**Dwelling** - Any building or part thereof, occupied as the home, residence or sleeping place of one or more persons either permanently, transiently, or seasonally.

**Easement** - A right created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another. It is either for the benefit of land (appurtenant), such as right to cross A to get to B, or "in gross" such as a public utility easement.

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

**Essential Public Services** - The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, collections, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare, but not including towers, or office buildings, substations, or structures which are enclosures or shelters for service equipment, or maintenance depots. Telecommunication towers or facilities licensed via state or federal agencies, alternative tower structures, wireless communication antenna and wind turbine generators are not included within this definition.

**Family** - Any number of individuals living together and cooking together on the premises as a single non-profit housekeeping unit, as distinguished from a group occupying a hotel, club or similar structure.

**Farm** - The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

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

**Farm Market** - A place or an area where transactions between a farm market operator and customers take place. This includes roadside stands. It does not necessarily mean a physical structure such as a building and is considered part of a farm operation. At least 50 percent of the products marketed and offered for sale at a farm market (measured as an average over the farm market's marketing season or up to a five-year timeframe) must be produced on and by the affiliated farm. Farm products may be processed more extensively into a form that adds value and makes them more marketable for direct customer sales in accordance with Michigan laws,

and then sold at the affiliated farm market, as long as allowed by local, state and federal regulations. A farm market may operate seasonally or year-round. Farm markets may include marketing activities and services to attract and entertain customers and facilitate retail trade business transactions, when allowed by applicable local, state and federal regulations.

**Flea Market** - A place where merchandise, is sold by two or more persons, each selling their own merchandise, whether owned by them or sold on commission or consignment to them.

**Floodplain** - As defined by the laws and regulations of the State of Michigan.

**Guest House** - A guest house is defined as a dwelling - detached from the owner-occupied main residence, however on the same property; which handles an overflow of company that is visiting said residence for a limited period of time. A guest house will not be use as a rental income producing structure.

**Hardship** - Special or specified circumstances that partially or fully exempt a person from performance of a legal obligation so as to avoid an unreasonable or disproportionate burden or obstacle. With regard to Zoning Board of Appeals proceedings, in order to find hardship, the ZBA must find conditions to exist as detailed in Section 17.10.

**Height** - The vertical distance from the average of the highest and lowest finished grade along the perimeter wall of the building to the highest point of the roof surface. For a commercial wind energy system, height is defined as: the distance between the ground at the base of the wind energy system and the highest point of the wind energy system with the blade in the uppermost vertical position.

**Home Occupation** - A gainful occupation conducted by members of the family, within its place of residence, provided that space used is incidental to residential use.

**Hotel (or Inn)** - A building where lodging with or without meals is furnished to transient or resident guests for compensation, containing sleeping rooms, and wherein a restaurant may be located.

**Impulsive Noise** - Short acoustical impulses or thumping sounds, which vary in amplitude. Impulsive noise may be a single noise event or an intermittent repetitive noise event with an impulse rate of one or more per second.

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

**Infrasound** - Sound frequency less than twenty (20) Hz.

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

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

**Kennel** – A lot or premises on which four (4) or more dogs, cats, or other domestic pets, six (6) months of age or older, are kept, either permanently or temporarily, for the purposes of breeding, boarding, training, sale, or transfer.

**Keyholing** - The practice of using one or more lake lots as Lake access for one or more off lake lots.

**Land Application Of Septage Waste** - the disposal of Septage Waste by applying the septage to the surface of the land or by injecting the septage into the ground.

**Licensed Septage Waste Servicer** - a person or entity engaged in the business of servicing Septage Waste under a license granted by the Michigan Department of Environmental Quality for the servicing of Septage Waste.

**Lighting Fixture** – A permanently installed lighting or illumination device.

**Living Quarters** – that portion of a dwelling that is suited for human habitation, is finished in a similar manner to the rest of the dwelling and meets all local and State construction codes for permanent occupancy.

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

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

**Lot of Record** - A lot which is part of a subdivision or condominium, the map of which has been recorded in the office of the Register of Deeds of Leelanau County; or a parcel of land described by metes and bounds, and/or created via the Township Land Division Ordinance, the description of which has been recorded in the office of the Register of Deeds of Leelanau County.

**Low Frequency (Sound)** - Sound frequency range from twenty (20) Hz to two hundred (200) Hz.

**Marina** - A boat basin providing dockage, supplies, sales and services for watercraft.

**Meadery** – A state-licensed facility where agricultural fruit production is maintained; juice and honey are processed into mead; and sold at wholesale or retail to the public with or without the use of a mead tasting facility.

**Mobile Home** - Shall mean any portable structure used for living purposes, mounted on jacks, blocks or foundation with skirting.

**Mobile Home Park** - A lot, parcel or tract of land used as the site of occupied mobile homes, including any building, structure, vehicle or enclosure used as part of the equipment of such mobile home park, and licensed or licensable under the provisions of Act 96, Public Acts 1987, State of Michigan, as amended, for such purposes.

**Motel** - Shall mean a building or group of buildings having units containing sleeping accommodations only that are available for temporary occupancy.

**Motor Boat** - Any vehicle having an engine (combustion, electric or steam) and capable of being used on or in a body of water.

**Multiple Family Dwelling** - A building or portion thereof containing more than 2 dwelling units designed for, or occupied as, the home of two or more families living independently of each other. This definition includes cooperatives and condominium units having a minimum of 800 square feet of living quarters for each unit, (exclusive of porches, attached garages, patios and etc.).

**Noise** - Any sound that would be unwanted by a reasonable person.

**Non-conforming Structure** - A building or structure lawfully existing at the time of enactment of this Ordinance or a subsequent amendment thereto that does not conform to area, height and placement regulations of this Ordinance for the Zoning District in which it is located.

**Non-conforming Use** - Any building or land lawfully occupied by a use at the effective date of this Ordinance or amendment thereof, which does not conform after passage of this Ordinance or amendment thereto with the requirements of the Zoning District in which it is situated.

**Parent Parcel** - A parcel or tract of land lawfully in existence on the effective date of this ordinance.

**Park** - Park is any non-commercial recreational area.

**Practical Difficulty** - The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his or her property not created by the landowner and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a practical difficulty if reasonable use for the property exists under the terms of the ordinance.

**Pre-Existing Towers and Pre-Existing Antennas** - Any tower or antenna for which a 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.

**Private Garage** - An enclosed building or semi-open carport designed for non-commercial residential storage

**Private Road** - Any accesses whether they are easements, ways, private drives common areas or otherwise by which more than four (4) lots or residential units are bounded by common motor vehicle access , or through which common motor vehicles access passes to the nearest public road.

**Private Wind Energy System** - Wind energy system that is used to generate electricity or produce mechanical energy for use on the property where located. A wind energy system that

does not exceed the maximum thirty (30) kilowatt generator size and the sale of excess electric power is allowed only via net metering.

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

**Pure Tone** - A pure tone consists of a single frequency or a combination of a single frequency and its harmonics. A pure tone is defined to exist if the one-third (1/3) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third (1/3) octave bands by five (5) dB(A) for center frequencies of five hundred (500) Hz and above, by eight (8) dB(A) for center frequencies between one hundred and sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dB(A) for center frequencies less than or equal to one hundred and twenty-five (125) Hz.

**Recreation Facility** - A privately or publicly owned facility, including buildings and property used for the purpose of recreation. Including but not limited to: golf courses, skiing operations, swimming, athletic fields, riding stables, health and fitness centers, tennis courts.

**Restaurant** -

A facility whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or more of the following characteristics:

- a. Customers, normally provided with an individual menu, are served their food and beverage by a restaurant employee inside or outside, at the same table or counter at which food and beverage are consumed;
- b. A cafeteria-type operation where food and beverage generally are consumed within the restaurant building;
- c. A drive-through window where food and/or beverages are served to patrons in motor vehicles.

The term "Restaurant" shall not be interpreted to mean or include a mobile food operation.

**Retail Store** - A store, market or shop in which commodities are sold, or offered for sale to the retail trade.

**Road** - Any public or semi-public thoroughfare, except alleys, in the Leelanau County, Centerville Township road system, including Federal and State highways and County roads.

**Roadside Stands** - Shall mean any accessory structure or building, but expressly prohibits vehicles, located along the roadway, (Section 9.4 Roadside Stand - Ag Dist), used or intended to be used solely for the purpose of the sale of seasonal farm products, situated upon or adjacent to lands used for farming in conjunction with a single family residence.

**Security Lighting** - Fixtures and/or practices intended to discourage, or make visible, intrusions on the premises.

**Sensitive Areas** - Sleeping Bear Dunes National Lakeshore, or an identified habitat for threatened or endangered species, or other designated areas, including those with important natural resources, as identified by Centerville Township, Leelanau County, state, or federal authorities. Such areas may include, but are not limited to:

- Floodplains
- Environmental areas, such as wetlands and migration routes
- High risk erosion areas
- Critical sand dunes
- Priority habitat areas (if any, from Michigan Natural Features Inventory)
- State/federal/county/township owned lands
- Known water well locations from District Health Department
- Historic and other cultural resources

These sensitive areas do not dictate land use, but provide additional restrictions that must be considered prior to an appropriate use being developed. Some of the areas that are listed here are already under some degree of control by virtue of State or Local Governmental ownership, or the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended. Additionally, State Land Use legislation addresses areas of critical concern.

**Sensitive Receiver(s)** - Places that are likely to be more sensitive to the exposure of the noise or vibration generated by wind energy system(s), including but not limited to schools, day-care centers, parks, residences, residential neighborhoods, churches, and elderly care facilities.

**Septage Waste** - any human excrement, wastewater or other material or substance removed from a portable toilet, septic tank, seepage pit, cesspool, sewage lift station, Type III marine service station or other enclosure as determined by administrative rules promulgated by the Michigan Department of Environmental Quality or within Part 117: Septage Waste of the Michigan Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended, but does not include liquid industrial waste, hazardous waste, petroleum or its constituents, domestic or restaurant solid waste, or other products or waste inconsistent with the Benzie-Leelanau Community Health Department Sanitary Code.

**Septage Waste Treatment Facilities** - Any piece of, or combination of, equipment, including tank(s), lagoon(s), pipeline(s), filter(s), processor(s), building(s), container(s), or other structure(s) used for actively or passively treating, storing, or settling Septage Waste, including equipment used to store, filter, or treat Septage Waste prior to disposal by Land Application.

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

**Setback** - The minimum distance from the lot line within which no buildings or structures, including overhangs, may be placed, except as otherwise provided in this ordinance.

- a. Front: Minimum distance, extending the full lot width, between the principal building and the front lot line.

- b. Rear: The minimum required distance, extending the full lot width, between the principal and accessory buildings and the lot line opposite the front lot line.
- c. Side: The minimum required distance, extending from the front setback to the rear setback, between the principal and accessory buildings and the side lot line.

**Setback Lines** - Shall mean lines established parallel to a property line along adjacent properties, roads or waters edge for the purpose of defining limits within which a building or structure or any part thereof (including eaves, chimneys, bay windows, decks, etc.) may be erected.

**Shadow Flicker** - The effect produced when the blades of an operating wind energy system pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his/her immediate environment.

**Shielding** - Permanently installed shade, cowl or baffle for the purpose of limiting or directing light from a lighting source.

**Sign** - Any device, structure, fixture, placard or other object used for the display of any message.

**Single Family Dwelling** - A building containing one dwelling unit and designed for, or occupied by, only one family.

**Special Land Uses Permitted by Special Approval** - Special land uses permitted by special approval are uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures within the zoning district, but could present potential injurious effects upon the primary uses and structures within the zoning district and therefore require special consideration in relation to the welfare of adjacent properties and to the community as a whole. All such proposed uses shall be subject to a public hearing and Site Plan approval by the Planning Commission.

**Site Plan** - All documents pertinent to a development or special land use; including drawings, tables, surveys, testing data, etc. that will be evaluated to determine if a proposed development meets the requirements of this Ordinance.

**Split** - One or more parcels that result from a land division as defined by the Land Division Act (1967 PA 288, MCL 560.101 et seq.).

**Stable, Commercial** - A land use where animals such as horses are bred, reared, trained, ridden and/or boarded for remuneration.

**Stable, Private** - A land use where animals such as horses are kept for private use by the occupants of the parcel and are not for hire, remuneration or sale.

**Street** A public thoroughfare which affords a principal means of access to abutting property.\

**Structure** - Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location on the ground.



**Tower** - Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, monopole towers, or poles. The term includes, but is not limited to, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

**Trailer Homes** - Any RV, house trailer or camper trailer or similar unit used or so constructed as to permit it to be used as a seasonal or vacation type home for sleeping or housekeeping by one (1) or more persons.

**Trailer Parks** - Any size lot, field, tract or parcel of land upon which four (4) or more occupied trailer homes are harbored either free of charge or for revenue purposes, as licensed by the Michigan Department of Health, having such required accessory buildings as central shower and toilet facilities, central laundry and utility building, also recreational facilities such as playground areas, etc., all designed and used primarily to serve transient or seasonal type guests in said trailer park.

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

**Uses Permitted by Right** - Uses permitted by right are the primary uses and structures for which the zoning district has been established. Such uses are allowed without a special use permit.

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

**Water Craft** - Any vehicle capable of being used on or in a body of water.

**Water's Edge** - Shall mean the "ordinary high water mark" as defined in the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended.

**Wetland** - Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh. (from Michigan Natural Resources and Environmental Protection Act 451 of 1994: Section 30301(p) of the Act, 1994 PA 451, MCL 324.30301(p).)

**Wind Energy System** - A commercial wind energy system that converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.

**Winery** – A state-licensed facility where agricultural fruit production is maintained; juice is processed into wine; and sold at wholesale or retail to the public with or without the use of a wine tasting facility.

**Working Farm** – Those operations which are growing agricultural products for sale. These sales must contribute to the farm operator's income. The working nature of the farm must be documented including control of the land being used and income documentation such as sales receipts, IRS Schedule F, or other documentation that the township agrees is satisfactory.

**Yard** - A space open to the sky between a building and the lot lines of the parcel of land on which located, unoccupied or unobstructed by an encroachment or structure, including overhangs, except as otherwise provided by this ordinance.

**A. Front Yard** - An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line or road right-of-way (whichever is less) and the nearest point of the principal building. There shall be maintained a front yard on each street side of a corner lot, until the property owner (or previous owner) has designated a Front Yard.

**B. Rear Yard** - A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the structure of the principal building. In the case of corner lots, there shall only be one rear yard, which shall be determined by the owner.

**C. Rear Yard** – A yard between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the structure of the principal building.

## ARTICLE III GENERAL PROVISIONS

### **Section 3.1 Scope**

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

Any use of land not specifically permitted is prohibited, except that the Zoning Board of Appeals shall have the power to classify a use which is not specifically mentioned along with a comparable permitted or prohibited use for the purpose of clarifying the use regulations in any district, if so petitioned and in accord with the requirements of Article XVII. If the Zoning Board of Appeals finds no comparable uses based on an examination of the characteristics of the proposed use, it shall so state and the Planning Commission may be petitioned to initiate an amendment to the text of the Ordinance to establish the appropriate district(s) type of use (by right or special use), and criteria that will apply for that use. Once the Ordinance has been amended to include the new regulations, then an application can be processed to establish that use.

### **Section 3.2 Essential Public Services**

Existing utilities, communications towers and transmission lines may continue to be operated and maintained, but no new essential public service construction other than poles, wires, and the usual underground utilities shall be started without first obtaining the approval of the Planning Commission.

### **Section 3.3 Yard Area & Lot Relation**

Every building hereafter erected shall be located on a parcel of land with the current deed, land contract, or lease on file with the Leelanau County Register of Deeds or on a lot or parcels of land the description of which shall be contained in a bona fide land contract or lease which is in full force and effect at the time of application for a permit under this Ordinance.

### **Section 3.4 Permit Requirements**

Subject to all other terms and conditions of This Ordinance, a Land Use Permit shall include legal description, length and width of lot, dimensional size and location of all structures to be erected, water supply and sewage system. It shall also include compliance with the regulations of any applicable local, state or federal agencies.

### **Section 3.5 Fire Hazard**

To reduce fire hazards, no building or structure nor any part thereof, may be erected or maintained closer than ten (10) feet to any other building, structure, or neighboring property line.

**Section 3.6 Driveways & Private Roads**

Section 3.6.1 Purpose:

The purpose of this ordinance is to facilitate safe and efficient traffic movement and vehicular access in the Township. The standards in this ordinance are intended to protect the public health, safety, and welfare, to minimize congestion and potential for accidents, and to ensure year-round access to property under emergency conditions. The regulations and standards of this ordinance apply to all properties in the Township. The requirements and standards of this ordinance shall be applied in addition to the requirements of the Michigan Department of Transportation, Leelanau County Road Commission, Leelanau County Soil Erosion Office and other provisions of this ordinance.

Section 3.6.2 General Requirements:

- 1. Approval under this ordinance shall be required prior to any and all of the following:
  - a. Construction of a new driveway;
  - b. Expansion or extension of an existing driveway;
  - c. Construction of a new private road;
  - d. Expansion or extension of an existing private road;
  - e. Creation or dedication of any non-public easement, right-of-way or access serving any land division or lot split;
  - f. Creation or dedication of any non-public easement, right-of-way or access serving any site condominium, plat or other group of residential or commercial units;
  - g. Construction or expansion of any land use along a private road which has been determined inadequate for passage of emergency vehicles under Section 4.8.19 of this ordinance.
  
- 2. A request for approval of a private road under this ordinance shall be considered a request for site plan approval under the Michigan Zoning Enabling Act. The decision on such a request shall be made using the procedures and standards in this ordinance. The decision shall be made by the official or body who decides the application for the underlying land use approval. The Zoning Administrator shall determine compliance with this ordinance regarding stand-alone requests related to driveways, creation or dedication of any non-public easement, right-of-way or access serving any land division or lot split. The Planning Commission shall determine compliance with the ordinance regarding stand-alone requests related to private roads. Requests for variances shall be decided by the Zoning Board of Appeals.
  
- 3. With the exception of variances, a request for approval under this ordinance will be granted if it meets the requirements of this ordinance, other applicable ordinances, and state and

federal statutes; and if it will protect the public health, safety, and welfare, minimize congestion and potential for accidents, and ensure year-round access to property under emergency conditions.

4. The approving body or official may approve or deny a request under this ordinance. The approving body or official may impose conditions that are reasonably related to the intent, requirements and standards in this ordinance.

### Section 3.6.3 Driveways:

An access serving four or fewer residential units or lots, or a maximum of one commercial or industrial use, is a driveway. A driveway shall meet the following standards:

1. Culverts, if installed, shall be in line with and on the same grade as the road ditch.
2. Driveways within 20 feet of a public or private road shall be aligned to intersect perpendicular to the existing public or private road wherever practical, but in no case shall a driveway intersect with a public or private road at an angle greater than 110 degrees or less than 70 degrees.
3. No portion of the driveway entrance within the right-of-way shall have a grade of greater than ten percent (1 foot vertical rise in 10 feet of horizontal distance).
4. The driveway shall meet clear vision standards of the Leelanau County Road Commission.
5. Residential driveways serving single family or two family dwellings shall be a minimum of 50 feet from the nearest right-of-way line of an intersecting road or street.
6. Vehicle ingress and egress points for commercial or industrial land uses shall not be closer than 100 feet to the intersection of any two public streets, or closer than 80 feet to an adjacent driveway within a Commercial or Industrial district.
7. All driveways leading to dwellings, garages, or accessory structures shall have a compacted gravel or paved surface, and shall be designed to minimize erosion.
8. Driveways constructed after the effective date of this Ordinance along major and minor thoroughfares shall align with existing or planned driveways, crossovers, turn lanes or other access features where reasonably feasible. The resulting alignment shall provide safe access and meet all requirements of this Ordinance, the Leelanau County Road Commission, and the Michigan Department of Transportation .
9. The location of new driveways shall conform with road improvement plans or corridor plans that have been adopted by the Township or Leelanau County Road Commission or Michigan Department of Transportation.
10. Each driveway must have a 20 foot right of way, a 12 foot wide clear zone and 12 foot width.

### Section 3.6.4 Plan and Profile:

Plan and profile drawings of a proposed private road shall be prepared by a Professional Engineer in detail complete enough to be used as construction plans. The drawings shall show the proposed gradients of such roads and the location of drainage facilities and structures, along with any other pertinent information. The maximum grade permitted shall be 12%, although shallower grades are required, dependent on length, according to the following:

### Gradient Maximum Length

Over 8% to 10% -- 900 feet

Over 10% to 12% -- 300 feet

Sight distance and horizontal and vertical alignment shall be based on a minimum design speed of 20 miles per hour and shall be in accordance with the American Association of State Highway and Transportation Officials' (AASHTO) "Policy of Geometric Design of Highways and Streets," under the designation of "Recreational Roads". The maximum grade at intersections and turnaround areas shall be 2%. The minimum radius for turnaround areas shall be 60 feet. Vertical and horizontal curves shall be used at all changes in grade or direction.

### Section 3.6.5 Clearing and Grubbing:

All trees, stumps, brush and roots thereof shall be entirely removed from within the grading limits of a private road. All graded areas shall have topsoil replaced, be seeded, fertilized and mulched in accordance with Leelanau County Soil Conservation District Office recommendations.

### Section 3.6.6 Grading:

The presence of anything other than granular materials in sub-grade soil shall require undercutting and full width placement of a minimum of 12 inches of granular sub-base under a private road. All peat and mulch shall be removed from the sub-grade. The level of the finished sub-grade shall be at least 2 ½ feet above the water table.

### Section 3.6.7 Drainage:

1. A drainage plan, submitted on a topographic map with no larger than 5-foot contour intervals shall be submitted, indicating the manner in which surface drainage is to be disposed of.
2. Drainage ditches shall be constructed on each side of a private road in cut sections and in fill sections when required. Ditches shall be of sufficient depth to permit placing of future connecting driveway entrance culverts.
3. In no case shall runoff be diverted beyond the limits of the properties serviced by the road or the road itself onto adjacent property unless appropriate easements are obtained.
4. A crown of sufficient slope to insure drainage shall be obtained across the width of the traveled-way for either gravel- or bituminous-surfaced roads.
5. The drainage plan shall meet the requirements of the Leelanau County Soil Conservation District Office and the Leelanau County Drain Commissioner's Office.

Section 3.6.8 Length, Width and Vertical Clearance:

1. The recorded right-of-way, traveled way, shoulders, utility areas and cleared zones shall have the minimum dimensions shown below.

#Lots/Residences to be served	Traveled Way Width	Shoulder Width	Minimum Clear Zone	Utility Area (one side)	Recorded ROW Easement
All measurements in feet					
1 through 4	See section 4.8.3 <i>Driveway</i>				
5 through 10	16	2	20	6	30
11 through 16	18	2	22	8	35
17 through 49	20	3	26	10	40
50 or more lots	22	5	32	10	50

Figure 1 - Private Access Road Dimensions

2. Minimum traveled way and/or minimum cleared zones may be reduced if required in writing by another governmental agency for environmental reasons.
3. The traveled way width must be set back from any properties not serviced by the road by at least 10 feet unless appropriate easements are obtained.
4. The maximum distance of a private access road shall be four thousand 4,000 feet as measured from a public road to the end of the farthest turn-around. If the distance is greater than 4,000 feet, or for a subdivision creating a total of 50 or more lots, one or more additional connections to a public road or to an adjacent private road of similar specifications are required.
5. Overhead clearances under bridges or tree branches shall be maintained at 14 feet over a twelve 12 foot width in order to allow free passage of large emergency vehicles.

### Section 3.6.9 Gravel or Bituminous Base:

A six-inch aggregate finish course of 23A processed road gravel (Michigan Department of Transportation Standard Specifications) shall be placed and compacted for gravel roads. Bituminous-surfaced roads require a compacted six-inch aggregate base course of 22A processed road gravel.

### Section 3.6.10 Shoulders:

Shoulder material shall be compacted so as not to rut or displace under traffic. Shoulder design and ditch construction shall meet all other recommendations of the County Soil Conservation District and County Drain Commission Offices.

### Section 3.6.11 Guardrail:

Guardrails shall be required at fill sections where the embankment is greater than six feet in height and the fill slope is steeper than 1 on 3. The construction of 1 on 3 slopes is preferred over the use of guardrails and is required where practical. Where guardrails or posts are used, shoulders shall be constructed two feet wider than the standard without guardrails.

### Section 3.6.12 Surfacing:

If hot mix asphalt (HMA) paving is used on a private access road, it shall be placed on at least six inches of compacted 22A aggregate. The HMA course shall be laid by an MDOT-qualified contractor at a rate of at least 200 pounds per square yard of Coarse Aggregate Top Course (CATC) (Leelanau County Road Commission special provisions) and may be applied in one course.

### Section 3.6.13 Private Road Names:

Private roads shall be named and designed in the manner required by the Leelanau County Address Ordinance. The applicant shall place private road name signs at all intersections of the private road and any other private or public road.

### Section 3.6.14 Private Road Alignment:

Private roads shall intersect with all other roads as closely to 90 degrees as practical, and in no case at less than 80 degrees. Where the proposed continuation of an access road at an intersection is not in safe alignment with the opposing road, it must not intersect the crossroad closer than 175 feet from the opposite road, as measured from the centerline of each road. The end of any private road must provide for turn-around of large vehicles, with a loop, a cul-de-sac, a wye or a rectangular area of sufficient length, width and radius to accommodate a 40-foot-long single-unit vehicle such as a fire truck.



### Section 3.6.15 Access Across Other Property:

This Ordinance applies to the entire length of a private road, even if it crosses property owned by others.

### Section 3.6.16 Materials:

All materials incorporated in the work shall meet the specifications called for, or be approved by, a Professional Engineer.

### Section 3.6.17 Maintenance Agreement:

An application for approval of a driveway serving more than one (1) property or a private road shall include a proposed maintenance agreement. The maintenance agreement shall be in recordable form and shall bind all future owners of property along the private road or the extension of the private road, as applicable. Neither the division of lots nor the construction of the private road shall occur until the maintenance agreement has been approved and has been recorded with the Register of Deeds. At a minimum, the maintenance agreement shall include these requirements:

1. All decisions about improvements and maintenance are to be approved by a majority vote of property owners served by the private road.
2. The owner of each property served by the road shall be responsible for payment of costs apportioned to his or her property.
3. Other owners of property served by the road have the right to bring an action against any delinquent property owner to foreclose a lien or otherwise collect sums owed.
4. The owners of property served by the road are responsible to maintain the road and drainage easement in compliance with this ordinance.
5. The road shall be maintained year-round.

### Section 3.6.18 Traffic Signs, Speed Limits and Non-Motorized Uses:

1. The approving body or official may require stop, yield or other traffic signs as a condition of approval, as necessary to fulfill the intent and requirements of this ordinance, and to protect public safety and welfare, including the safety and welfare of pedestrians and non-motorized users.
2. The approving body or official may require speed limits, including the posting of speed limit signs as a condition of approval, as necessary to fulfill the intent and requirements of this ordinance, and to protect public safety and welfare, including the safety and welfare of pedestrians and non-motorized users.

3. The approving body or official may require bike lanes or non-motorized trails as a condition of approval, as necessary to fulfill the intent and requirements of this ordinance, and to protect public safety and welfare, including the safety and welfare of pedestrians and non-motorized users.

#### Section 3.6.19 Non-Conforming Private Roads:

Existing private roads at the time this ordinance becomes effective that do not meet all design requirements may continue to be used provided that the safety features necessary for passage of emergency vehicles are met prior to the issuing of any new land use permit for property to be served by the road. Verification of safety adequacy by the Township Fire Chief, or designee, is required in such cases before land use permits are issued. If the Fire Chief or designee determines the road is not adequate for passage of emergency vehicles, approval of a site plan for necessary upgrades is required. Any required upgrades shall be made in the entire stretch of private road between the property where the land use permit is issued and the public road. Any applicant for a land use permit who claims hardship as a result of this provision may request a variance under Section 3.6.21.

#### Section 3.6.20 Enforcement:

1. A violation of this ordinance is a civil infraction. If the Township requests that a person correct a violation, each day that the violation is not corrected is a separate infraction.
2. A violation of this ordinance is also a nuisance per se. The Township may bring an action for injunctive relief to correct the violation, as well as to seek any other relief that is appropriate under the circumstances.
3. The remedies in this section are cumulative.

#### Section 3.6.21 Variances:

1. A person may apply to the Zoning Board of Appeals (ZBA) for a variance from one or more requirements of this ordinance.
2. A variance may only be granted upon a finding that at least one of the two following conditions have been met:
  - a. A variance or exemption is required in order to comply with conflicting a County or State law, ordinance or regulation.
  - b. A practical difficulty will result from the strict application of the requirement.

3. In addition to the findings in (2), in order to grant a variance the ZBA must also find that all of the following are met:
  - a. The variance will not be detrimental to the public health, safety or welfare;
  - b. The variance will not be injurious to other property;
  - c. The variance will not nullify the intent this ordinance or the Master Plan.
4. The ZBA may impose any and all conditions on the granting of a variance that are reasonably related to the intent, requirements and standards in this ordinance.

### **Section 3.7 Signs**

To discourage and restrict the use of signs, the following provisions permitting the erection and maintenance of signs will be construed in the light of the following:

- A. No sign shall be erected without first obtaining a permit from the Zoning Administrator.
- B. Signs of not more than thirty-two (32) square feet in area 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 on any real estate in all other Districts. No business shall be entitled to more than three (3) roadside signs in the Township.
- C. One identification sign of not more than thirty-two (32) square feet may be erected on the premises as part of any business or activity conducted thereon in any District, except that signs relating to home occupations shall be controlled by the provision of Section 5.2, paragraph A.2.
- D. Two (2) signs of not more than thirty two (32) square feet each, without regard to setback lines shall be permitted, when used in connection with a roadside stand, farm or gardening operation lawfully carried on said premises, provided they be removed during the seasons of the year when such produce is not sold.
- E. No poster type signs shall be tacked up on poles or trees or otherwise erected. For sale or for rent signs of not more than six (6) square feet in size may be placed without permit. No Trespassing, no hunting signs and/or identification signs for private residence may be placed without a permit.
- F. For the safety of the general public, no spinners, pennants, flashing lights, internal illumination or other distracting devices may be used in conjunction with any sign or business or residence.

**Section 3.8 Boat Houses**

Unless otherwise specifically provided in This Ordinance, Boat Houses constructed on lakes or watercourses in the Township do not have to comply with setback restrictions from such shoreline of lakes or watercourses as would be applicable to other types of structures. A 14' x 24' maximum building footprint and an 18' high peak with a 6/12 gable roof are allowed; no habitable space or decking is allowed. Boat Houses must still comply with side yard setbacks and lot coverage.

**Section 3.9 Use of Lots for Lake Access Easements**

A minimum of one hundred (100') feet of Lake Frontage is required before granting an easement in accordance with this section. Easements must contain a minimum of twenty-five (25') feet of lake frontage and can only be granted to or held by person's owning property within the same section as the lot to be used for Lake Access. An easement may only be granted or held by one party. Separating and selling the right to use Lake Access associated with nearby inland acreage is prohibited. Granting easements across a previously improved residential lake lot is prohibited and will void the lake lot as an approved building site. The owner of the lake lot used for the lake access easement is required to provide one sanitation facility for each one hundred (100') feet of Lake Frontage. Any such sanitation facility must be appropriately screened from public view. A minimum of one off-street parking space for each authorized access right must be provided for all Lake lots.

**Section 3.10 Docks, Moorings and Boats**

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

- A. On in-land lake property, docks shall be limited to one dock per 100' lake lot, or 50' lot which has been grand fathered in.
- B. On in-land lakes, no more than three motor-boats and ten (10) water craft other than motor boats shall be allowed per 100' of lot width, or per lot if the lot is less than 100' in width and grand-fathered in. No more boats than this may be stored on hoists, beached, moored, docked, or anchored; no more than one motorboat and one watercraft other than a motorboat shall be allowed for each additional 25' of lot width on hoists, beached, moored, docked, or anchored. No person may be allowed to rent slippage or mooring rights unless that person possesses a commercial marina permit.
- C. Shoreline alterations to riparian properties for on site boat launching and/or development of launch sites for multiple party use- private or commercial - is prohibited.

**Section 3.11 Maximum Height**

In order to preserve the pastoral character of the area, no building or structure or any part thereof shall be constructed having a height greater than forty (40) feet. This does not include antenna systems that might require a greater height for adequate signal reception, windmill towers, or any structure actively used for agricultural purposes.

**Section 3.12 Completion**

Any structure requiring a Land Use Permit must be completed on the exterior surface with a suitable finishing material, within one (1) year from date of issuance of the Land Use Permit. If hardship can be shown, only on approval of the Zoning Administrator a Land Use Permit may be renewed for one (1) additional year by payment of an additional fee.

**Section 3.13 Trailer Homes**

A maximum of two (2) trailer homes may be located on any parcel of land without issuance of a land use permit, provided the following conditions and limitations are met:

- 1. Each trailer home shall:
  - A. Be maintained in a reasonable state of repair and in working condition.
  - B. Meet all applicable set back requirements.
  - C. Not be located in a Public right-of-way.
  - D. Not be used for commercial or business purposes.
  - E. Not constitute a public or private nuisance.
  - F. Not be used for residential purposes for more than sixty (60) days in any calendar year.
  - G. Not be used as a permanent dwelling, AND;
  - H. Meet Health Dept. requirements for sanitary waste disposal and water supply.
- 2. No trailer home shall be located, parked, or stored for a total of more than sixty (60) days in any calendar year, on any parcel of land, on which no permanent dwelling exists, UNLESS inside a barn, garage or other enclosed structure conforming to all requirements of the Ordinance.
- 3. More than three (3) trailer homes on a parcel of land shall constitute a trailer park.
- 4. The use of not more than three (3) trailer homes may be permitted on a single parcel of property for a period not to exceed fifteen (15) days in any calendar year with the prior permission of the Zoning Administrator.

**Section 3.14 Bed and Breakfast Establishments**

Bed and Breakfast establishments shall be allowed as a Conditional Use in all land use districts providing they comply with the following for their guests:

- A. One off-street parking space for each bedroom.
- B. Two exits from within the structure.
- C. One working smoke detector in each bedroom and on each floor of the establishment.
- D. One identification sign shall be permitted and shall conform to section 5.3B.
- E. A register of guests shall be maintained by the bed and breakfast establishment.
- F. A floor plan of the dwelling shall be submitted to the Zoning Administrator prior to issuance of the Land Use Permit.

**Section 3.15 Mobile Homes**

All the requirements of the Leelanau County Department of Building Safety must be complied with and final occupancy inspection granted. The township requires all mobile homes be skirted within thirty (30) days of placement on lot.

**Section 3.16 Towers and Antennas**

The intent and purpose of this section is to establish general guidelines for the siting of towers and antennas. The goals of this ordinance are to:

- 1) protect residential areas and land uses from potential adverse impacts of towers and antennas;
- 2) encourage the location of towers in non-residential areas;
- 3) minimize the total number of towers throughout the community;
- 4) strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- 5) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact of the community is minimal;
- 6) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, citing, landscape screening, and innovative camouflaging techniques;
- 7) enhance the ability of the providers of services to provide such services to the community quickly, effectively and efficiently;
- 8) consider the public health and safety of towers; and
- 9) avoid potential damage to adjacent properties from tower failure through proper engineering and careful citing of tower structures.

In furtherance of these goals, Centerville Township shall give due consideration to the Centerville Township master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

A. Specific definitions:

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

- a) Alternative tower structure means man-made trees, clock towers bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of towers or antennas.
- b) Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, wireless telecommunication signals or other communication signals.
- c) 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.
- d) FAA means the Federal Aviation Administration.
- e) FCC means the Federal Communication Commission.
- f) 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.

- g) Preexisting towers and antennas means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
- h) Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, monopole towers or poles. The term includes, but is not limited to radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like. The term includes the structure and any support thereto.

B. Applicability:

- a). New towers and antennas. All new towers or antennas in Centerville Township shall be subject to these regulations, except as provided in paragraphs B(b) through B(d) inclusive of this section.
- b). Amateur Radio Station Operators/Receive only Antennas. This ordinance shall not govern any tower, or the installation of any antenna, that is under sixty (60) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- c). Renewable energy towers. This ordinance shall not govern any tower, or the installation of any tower, that is under one-hundred (150) feet in height and is owned and operated by an individual and used for the generation of renewable energy.
- d). Preexisting Towers or Antennas. Preexisting towers and antennas shall not be required to meet the requirements of this zoning ordinance, other than the requirements of paragraphs C(f) and C(g), of this section, provided they are not improved in a way which raises their pre-existing height.
- e). AM Array. For purposes of implementing this ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as an 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. Additional tower units may be added within the perimeter of the AM array by right.

C). General Requirements.

- a) Principal or Accessory use. Towers and antennas may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of a tower or antenna on such lot.
- b) Lot size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the towers or antennas may be located on leased parcels within such lot.
- c) Inventory of existing sites. Each applicant for a tower or antenna shall provide to the Zoning Administrator an inventory of existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of Centerville Township or within six miles of

the border thereof, including specific information about the coverage area, location, height, and design of each such tower or antenna. The Zoning Administrator may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate towers or antennas within the jurisdiction of Centerville Township, provided, however that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

- d) Aesthetics. towers and antennas shall meet the following requirements:
  - 1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - 2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  - 3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- e) Lighting. 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.
- f) State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the towers or antennas at the owner's expense.
- g) Building codes; safety standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection Centerville Township/Leelanau County concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- h) Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in Centerville Township irrespective of municipal and county jurisdictional boundaries.
- i) Not essential services. Towers and antennas shall be regulated and permitted pursuant to this section of the zoning ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.
- j) Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in



Centerville Township have been obtained and shall file a copy of all required franchises with the Zoning Administrator.

- k) Public notice. For the purposes of this section, notice of a public hearing on any special use request, variance request, or appeal of an administratively approved use or special use be made according to the Public Notification Section of the Township Zoning Ordinance, except that personal or mailed notice will also be made to all owners of properties that are located within the corresponding separation distance listed in paragraph C(p)(II) Table 2, of this section.
- l) Signs. No signs shall be allowed on a tower or antenna.
- m) Buildings and support/storage equipment. Buildings and support equipment associated with antennas or towers shall comply with the following requirements:
  - (i) Antennas mounted on structures or rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:
    - (1) Cabinet or structure shall not contain more than 16 square feet of gross floor area or be more than 6 feet in height. In addition, for buildings and structures which are less than 65 feet in height, the related unmanned equipment structure, if over 16 square feet of gross floor area or 6 feet in height, shall be located on the ground and shall not be located on the roof of the structure.
    - (2) Equipment storage buildings or cabinets shall comply with all applicable building codes.
  - (ii) Antennas mounted on utility poles or light poles. The equipment or cabinet or structure used in association with antennas shall be located in accordance with the following:
    - (1) In the residential/commercial/agricultural districts, the equipment or cabinet or structure may be located:
      - (a) In a front or side yard provided the cabinet or structure is no greater than 4 feet in height or 16 square feet of gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 48 inches and planted height of at least 36 inches, with 85% opacity throughout the year.
      - (b) In a rear yard, provided the cabinet or structure is no greater than 6 feet in height or 16 square feet in gross floor area. The cabinet or structure shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches, with 85% opacity throughout the year.
    - (iii) Antennas located on towers. The related unmanned equipment structure shall not contain more than 100 square feet in gross floor area or be more than 12 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which it is located.
    - (iv) Modification of building size requirements. The requirements of paragraphs C(m)(i) through (iii) may be modified by the Planning Commission to encourage co-location.
- (n) Availability of suitable existing towers, other structures, or alternative technologies. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology.

Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (i) No existing towers or structures are located within the geographic area which meets the applicant's engineering requirements.
- (ii) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- (iii) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (v) The applicant demonstrates there are other limiting factors that render existing towers and structures unsuitable.
- (vi) The applicant demonstrates that an alternative technology that does not require the use of towers or structures is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- (o) Setbacks. The following setback requirements shall apply to all towers; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals or this ordinance would be better served thereby:
  - (i) Towers must be set back a distance equal to at least 100% of the height of the tower from any adjoining lot line.
  - (ii) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- (p) Separation. The following separation requirements shall apply to all towers and antennas; provided, however, that the Planning Commission may reduce the standard separation requirements if the goals or this ordinance would be better served thereby:
  - (i) Separation from off-site uses/designated areas.
    - (a) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1 of this section, except as otherwise noted in Table 1.
    - (b) Separation requirements for towers shall comply with the minimum standards established in Table 1 of this section

**Table 1.**

Improved unplatted/platted lands in the Residential, Commercial, and/or Agricultural districts.	200 feet or 200% height of tower <sup>1</sup> whichever is greater.
Vacant single-family or duplex Commercial, and/or Agricultural zoned land which is either platted or has preliminary subdivision/site condominium plan approval which is not expired.	200 feet or 200% height of tower <sup>1</sup> whichever is greater.
Vacant unplatted Commercial, and/or Agricultural zoned lands.	100 Feet or 100% of tower height whichever is greater.

<sup>1</sup> Separation measured from base of tower to closest building setback line.

(ii) Separation distances between towers:

- (a) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in lineal feet) shall be as shown in Table 2

**Table 2:**

Existing towers - types	Lattice	Guyed	Monopole 75' in height or greater	Monopole less than 75' in height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75' in height or greater	1,500	1,500	1,500	750
Monopole less than 75' in height	750	750	750	750

- (q) Security Fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device.
- (r) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided however, that the Planning Commission may reduce the standard separation requirements if the goals or this ordinance would be better served thereby:
- (i) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
  - (ii) In locations where the visual impact of the tower would be minimal the landscaping requirement may be reduced or waived.
  - (iii) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases such as towers cited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

**D) Specific Site Plan Review Requirements for towers and antennas**

The following requirements shall be part of the site plan review requirements for towers and antenna in addition to those found in Article XIII, section 13.1.

- (1) Applicants for site plan review under this section shall be subject to the procedures and requirements of the Zoning Ordinance, except as modified in this 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 towers or antennas;
  - b. on-site land uses and zoning, adjacent land uses and zoning
  - c. Master plan classification of the site and all properties within the applicable separation distances set forth in section C(p);
  - d. Adjacent roadways, proposed means of access;
  - e. Setbacks from property lines;
  - f. Elevation of the proposed tower and any other structures;
  - g. Topography;
  - h. Parking; and
  - i. Other information deemed by the 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) The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 3.16.C(c) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing towers.
- (7) A landscape plan showing specific landscape materials.
- (8) Method of fencing, and finishing color and, if applicable, the method of camouflage and illumination.
- (9) A descriptive narrative of compliance with the following sub-sections of Section 3.16.C of this Ordinance:
- (c) Inventory
  - (d) Aesthetics;
  - (e) Lighting
  - (f) State of Federal Regulations
  - (g) Building codes
  - (j) Franchises
  - (l) Signs
  - (m) Building and support Equipment
  - (o) Setbacks
  - (p) Separation
  - (q) Security fencing
  - (r) Landscaping and
  - (s) All applicable federal, state or local laws.
- (10) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- (11) 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 has an impact on this application.
- (12) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

(13) A description of the feasible location(s) of future towers or antennas within Centerville Township based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

E) Exempt Tower and Antenna Uses.

Personal towers used for wireless internet access, TV reception or radios, less than 60' in height are exempt from Site Plan Review.

F) Special Land Use Permits.

- 1) A special land use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
- 2) In granting a special use permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
- 3) Each applicant for special land use permit approval shall apply to the Planning Commission providing the information set forth in Sections 3.16 C, D & F of this zoning Ordinance and a non-refundable fee as established by resolution of the Centerville Township Board to reimburse the Township for the costs of reviewing the application.
- 4) The Planning Commission shall consider the following factors in determining whether to issue a special use permit, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this Zoning Ordinance are better served thereby:
  - (i) Height of the proposed tower.
  - (ii) Proximity of the tower to residential structures and residential district boundaries;
  - (iii) Nature of uses on adjacent and nearby properties;
  - (iv) Surrounding tree coverage and foliage;
  - (v) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - (vi) Availability; of suitable existing towers, antennas, other structures, or alternative technologies not requiring the use of towers of structures, as discussed in Section 3.16.C(n).
- 5) The Planning Commission shall prepare a report containing a synopsis of the relevant facts pertaining to the request for a special use permit and then approve, approve with conditions, or deny the request.

G) Removal of abandoned Antennas and Towers.

Any tower or antenna that is not operated for a continuous period for six (6) months shall be considered abandoned, and the owner of such tower or antenna shall remove the same within ninety (90) days of receipt of notice from the Centerville Township Zoning Administrator notifying the owner of such abandonment. Failure to remove and abandoned antenna or tower within said ninety days shall be grounds for the Township to remove the tower at the owners expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

H) Non-conforming Tower uses.

- (a) 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 of structure.
- (b) 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 routing maintenance on a preexisting tower shall comply with the requirements of this Ordinance.
- (c) Rebuilding damaged or destroyed nonconforming towers or antennas. Notwithstanding paragraph (G) above, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain a special use permit and without having to meet the separation requirements specified in Sections 3.16.C.(o) & (p). The type, height, and location of the tower on-site shall be of the same type and intensity as the original facility. 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 paragraph (G).

**Section 3.17 Guest House**

A guest house is defined as a dwelling- detached from the owner-occupied main residence, yet located on the same property, which handles an overflow of company that is visiting said residence for a limited period of time. A guest house will not be use as a rental income producing structure.

**Section 3.18 Outdoor Lighting Ordinance**

Section 3.18.1 Intent:

The naturally lit night sky is of value to the character and quality of life in Centerville Township. Concurrently, the health, safety and welfare of residents and visitors depends on appropriate artificial outdoor lighting. Indeed, quality lighting sources and design can contribute to visual acuity, color recognition and visual effectiveness. Accordingly, it is the policy of the Board to generally limit outdoor lighting which would generate light pollution of the night sky and to provide standards for allowable outdoor lighting in various applications, intensities and times consistent with thoughtful, efficient design and energy conservation.

### Section 3.18.2 Standards:

Outdoor lighting fixtures (fixture) and installations shall conform to the following restrictions, excluding applications of single decorative lamps of **less** than 70 watts:

1. The fixture shall be designed and/or shielded in such a configuration as to limit all lighting above the fixture from horizontal to the lamp and upward.
2. The fixture and installation are to be designed such that direct views of the lamp are not visible from adjacent properties or public property, including roadways.
3. Fixtures and installations are to be designed in such a way as to minimize energy usage through:
  - A. Optical efficiency of the lamp and fixture.
  - B. High lumen per watt output of the lamp source.
  - C. Use of manual switching, timers and/or motion detectors for minimal usage.
4. All outdoor recreational facilities, including but not limited to tennis courts, outdoor field sports, golf courses and facilities, and ski areas shall be illuminated with fixtures in compliance with the above restrictions and equipped to manually or automatically switch off before 11:30 pm.
5. Spotlights and Floodlights shall be directed generally downward. By exception, signage, buildings and landscaping may be upright only by fixtures less than 70 watts and the lighting must light only the intended surface area.
6. Signage may be lit only to the extent that the signage itself is directly lit by the lamp source. The lamp source may not be visible to the passing motorist in either direction.
7. Pole lighting may not be higher than 22'.
8. Parking lots may only be lighted during regular business hours + 1hr at closing.
9. Security lighting of parking lots and buildings is exempt from the above provision, except that Security lighting must comply with articles 1, 2 & 3. If Security lighting is to be wall mounted, it must be oriented downward.
10. The use of lighting for farming is specifically exempt from the standards of this ordinance, except that greenhouse and hothouse lighting is to be considered an industrial application.
11. Other uses as specifically applied for to the planning commission may or may not be granted by a majority vote such as: temporary lighting events, night construction operations, sports events, specialized industrial applications, etc.

### Section 3.18.3 Applications and Enforcement:

1. The Zoning Administrator and planning commission are hereby empowered to enforce the provisions of this ordinance.
2. It is the responsibility of the landowner, user or business to comply with the provisions of this ordinance.
3. The landowner, user or business shall make application for approval to the Zoning Administrator providing a plan showing number and location of fixtures. Single family residential users are not required to file application, but must still comply with Sections

- 3.18.1 & 3.18.2 provisions of this ordinance.
4. The Zoning Administrator will review the project upon completion and upon finding compliance shall grant final approval.
  5. If the Zoning Administrator reviews the project upon completion and finds lack of compliance, the project will be referred to the planning commission for review.
  6. Upon review of any project for compliance with this ordinance, the planning commission may order removal or changes to outdoor lighting at landowner's expense for any project to achieve compliance with both the plan submitted by the landowner, user or business and to achieve compliance with Section 3.22.2. The planning commission may base decisions on the information provided by the applicant, the initial plan application, photometric and technical data on fixtures used, lighting designer or engineer expertise, correspondence and public hearing.

### **Section 3.19 COMMERCIAL WIND ENERGY SYSTEMS**

#### Section 3.19.1 PURPOSE:

The purpose of this Ordinance is to define standards and procedures governing installation and operation of commercial wind energy systems as a special use in Centerville Township. Standards and procedures are necessary to:

- Protect public health, safety and welfare;
- Ensure that the location and scale of commercial wind energy systems within the Township are consistent with the vision and goals of the master plan;
- Protect all areas of the Township and the Township's natural resources from potential adverse impacts of wind energy systems, including adverse visual and environmental impacts;
- Avoid potential damage to adjacent property from hazards associated with and/or failure of commercial wind energy systems;
- Ensure the compatibility of adjacent land uses;
- Protect property values;
- Define regulatory requirements and procedures for:
  - Permit application and review
  - Monitoring and compliance
  - Revocation and/or decommissioning

#### Section 3.19.2 GENERAL PROVISIONS:

##### Section 3.19.2.1 Applicability:

Commercial wind energy systems shall not be regulated or permitted as essential services, public utilities, or private utilities. Commercial wind energy systems are allowed as a special land use within Agricultural Districts in Centerville Township subject to the requirements of this Ordinance. All interconnected wind energy systems, except those that meet the definition of private wind energy systems, shall be considered commercial and subject to special land use permit and requirements within this ordinance.



### Section 3.19.2.2 Total Generating Capacity:

The total rated generating capacity for all commercial wind energy systems allowed in Centerville Township shall not exceed two times the amount of electricity used by the Township in the calendar year preceding the application.

### Section 3.19.2.3 Application for Special Land Use Permit:

- An owner/applicant may apply for a Special Land Use Permit to construct and operate a commercial wind energy system subject to all of the requirements of this Ordinance.
- Centerville Township shall have the right to impose other discretionary criteria, including time-related conditions such as phased development, to effectuate the purpose and intent of this Ordinance, to protect the health, safety and welfare of the Township residents, to protect the social and economic well-being of nearby residents and landowners, and to protect against pollution, impairment or destruction of the Township's natural resources.
- Procedures for application and site plan review shall comply with requirements set forth for Major Projects in "Procedures for Site Plan Review" of the Centerville Township Zoning Ordinance except that the Planning Commission may require more than one public hearing. Notice of the public hearing will be made according to the Michigan Zoning Enabling Act.

### Section 3.19.2.4 Approval Standards:

The Centerville Township Planning Commission shall not approve a Special Land Use Permit unless it finds that:

- The applicant/owner has demonstrated compliance with the General Provisions, Performance and Regulatory Standards, and Application Requirements of this Ordinance, as well as "Standards for Granting Site Plan Approval" from the Centerville Township Zoning Ordinance.
- The Township shall have the right to impose other discretionary criteria in order to effectuate the purpose and intent of this Ordinance, to protect the health, safety, and welfare of the Township residents, or to protect against pollution, impairment or destruction of the Township's natural resources.

### Section 3.19.2.5 Issuance of Special Land Use Permit for Construction and Operation:

- If the Centerville Township Planning Commission finds that the applicant/owner has met the approval standards, it may issue a Special Land Use Permit for construction of a wind energy system that shall be valid for two years from the date of issue.
- Upon completion of construction, the applicant/owner shall submit to the Centerville Township Zoning Administrator proofs of compliance with all requirements of the Ordinance. If such submission does not occur within two years, the Special Land Use Permit is no longer valid.
- The Centerville Township Planning Commission shall determine that all provisions, requirements, standards, and discretionary criteria have been complied with fully before issuing a final Special Land Use Permit for operation of the wind energy system that shall be valid for five years from the date of issue.

- Six months prior to the expiration of the Special Land Use Permit for operation of the wind energy system, the applicant/owner/operator shall submit to the Centerville Township Zoning Administrator proofs of continued compliance, including safety and maintenance records, records of environmental impacts and records on the useful life of similar equipment. The Centerville Township Planning Commission may reissue the Special Land Use Permit for operation of the Wind Energy System for another five-year period if it finds sufficient evidence of continued compliance.
- In the event that the Special Land Use Permit for operation of the Wind Energy System is not reissued, the wind energy system shall be considered in violation of the Ordinance.
- The Township reserves the right of review of compliance with the conditions and limitations imposed upon such use, and any failure to comply may result in termination of the permit by action of the Planning Commission.

### Section 3.19.2.6 Revocation

The Township Board shall have the authority to revoke any special use permit if (a) it was granted in part because of a material misrepresentation by the applicant or an agent of the applicant; or (b) the holder of the special use permit violates any term of the special use permit, including any condition, or any applicable requirement of the ordinance. In either event, the Township shall give written notice to the holder of the special use permit, by ordinary mail to the last address provided to the Township by the holder of the special use permit. If the subject of the notice is a violation of a term or condition of the special use permit or the ordinance, the permit holder shall have 30 days from the date of the notice to correct the violation, unless the time period is extended at the sole discretion of the Township Supervisor. If the violation is not corrected in time, or if the subject of the notice was a material misrepresentation by the applicant or its agent, the Township Board may revoke the special use permit with cause after a hearing. The Township Board shall establish notice requirements and such other conditions for the hearing as the Township Board deems appropriate, including but not limited to the subpoena of persons and/or documents. The holder of the special use permit shall reimburse the Township for its costs, including expert consultant and attorney fees, associated with or resulting from a revocation proceeding. This paragraph shall not prevent the Township from seeking any appropriate relief in any other venue, including but not limited to civil infraction proceedings, criminal proceedings, or proceedings in civil court.

### Section 3.19.2.7 Enforcement and Penalties:

- The enforcement of the Ordinance shall be the responsibility of the Centerville Township Zoning Administrator, unless otherwise specified in the ordinance or designated by the Township.
- An owner/operator, landowner, firm, association, corporation or representative agent of any wind energy system that is found by Centerville Township, or its designee, to be in violation of the special use permit, or to be abandoned, inoperable, or unsafe as defined in this Ordinance, or to have a serious adverse impact as defined in this Ordinance:
  - Shall provide abatement by shut down, repair, or removal of the wind energy system upon written notification from the Zoning Administrator (or other Township designee).
  - Is a civil infraction, the penalty for which shall be \$500 per occurrence. For violations that continue after a written demand for correction by the Township, each day shall be considered a separate occurrence.

- May be subject to revocation of the special use permit for excessive and continued violations.
- May be required to reimburse Centerville Township for cost(s) and expenses of obtaining other relief including a temporary or permanent injunction; such reimbursement may include costs and reasonable attorney fees.

Section 3.19.2.8 Certification of Insurance:

- Applicant/owner/operator/landowners shall indemnify and hold harmless the applicant/owner/operator/landowners itself and Centerville Township, all as additional named insureds, against any and all claims arising out of the existence and operation of the wind energy system.
- Applicant/owner/operator/ shall procure comprehensive general liability, casualty, wrongful acts insurance policies, and any other policies customary to the wind energy system industry. This insurance shall be in the amount of \$5 million per wind energy system but not to exceed \$100 million in the aggregate if the applicant/owner/operator/ own(s) more than one wind energy system in Centerville Township. The Planning Commission may adjust these amounts periodically to reflect inflation.
- The applicant/owner/operator/ shall maintain these insurances for the duration of the construction, operation, decommissioning, removal and site restoration of the wind energy system. The insurance carrier shall be instructed to provide Centerville Township with certificates of the existence of such insurances, and shall be instructed to notify the Township if such insurances expire for any reason.
- Failure of the applicant/owner/operator to maintain these insurances at all times shall result in termination of the permit.
- Cancellation Notice - all insurances described shall include an endorsement stating the following: It is understood and agreed that thirty (30) days advanced written notice of cancellation, non-renewal, reduction and/or material change shall be sent to the township Zoning Administrator.

Section 3.19.2.9 Removal Cost Guarantee:

The cost of removal and site restoration is the full responsibility of the applicant and/or owner/operator. In order to provide the greatest possible financial assurance that there will be sufficient funds to remove the wind energy system and to restore the site, the following steps shall be followed:

- For each wind energy system, the applicant/owner/operator shall determine an amount of money equal to the estimated removal and restoration cost. The Planning Commission shall require independent verification of the adequacy of this amount.
- This money shall be deposited in an escrow account specified by Centerville Township, which may be an interest-bearing account. There shall be no alternative to such an account. A surety bond, letter of credit, or other financial promise shall not be accepted.
- Withdrawals will be made from this account, solely by Centerville Township or its designee, only to pay for removal and site restoration of the wind energy system as provided for in this Ordinance.
- Any money left in the account for each wind energy system after removal and site restoration shall be returned by Centerville Township to the then owner/operator.

#### Section 3.19.2.10 Separation and Management of Each Removal Cost Account:

If more than one wind energy system is owned by the same applicant/owner/operator, the removal/restoration guarantee accounts may be joined together by Centerville Township into a single account for that applicant/owner/operator. However, accounts for different applicant/owner/operators shall be kept separate. Centerville Township may, from time to time, change the financial institution in which such accounts are deposited.

#### Section 3.19.2.11 Administration Costs – Initial Application and Ongoing:

- For each wind energy system, the applicant/owner/operator shall deposit into an escrow account the amount of \$25,000. The purpose of this joint escrow account is:
  - To reimburse Centerville Township for its costs incurred to hire consultants and experts as the Township, at its sole discretion, deems desirable to examine, evaluate and verify the data and statements presented by the applicant/owner/operator
  - For the life of each wind energy system, to cover the administrative and legal costs incurred by Centerville Township in monitoring and enforcing the owner/operator's ongoing compliance with the Ordinance.
- The account shall be managed as follows:
  - Funds can be withdrawn from this account only by the signature of a Township designee.
  - If at any time the balance of this account shall fall below \$15,000, the applicant/owner/operator shall deposit an additional \$10,000 into the account.
  - If at any time the balance of this fund shall fall below \$15,000 for a continuous period of thirty days, the application shall be considered to have been withdrawn, or the Permit for the wind energy system may be terminated.
  - The township Zoning Administrator or township designee shall be charged with monitoring the escrow account and giving quarterly reports to the Planning Commission.

After the wind energy system has been removed and site restoration has been completed, as defined in this Ordinance, any balance remaining in this account shall be returned to the applicant/owner/operator.

#### Section 3.19.2.12 Insufficiency of Removal and Administrative Cost Accounts:

During the useful life and operation of the wind energy system, Centerville Township may from time to time determine, in its sole discretion, whether the amounts deposited for removal, site restoration, and administration costs are adequate for these purposes. (Costs of removal, restoration and administration may change due to technology, environmental considerations, inflation, and many other causes.) If the Township determines that these amounts, including any interest earned to date, are not adequate, the Township shall require the owner/operator to make additional deposits to the accounts to cure such inadequacy. The Township shall consider the wind energy system in violation of the Ordinance if the owner/operator fails to cure the inadequacy within sixty (60) days of notification.

### Section 3.19.2.13 Road Repair Costs:

Any damage to a public road within Centerville Township resulting from the construction, maintenance or operation of a wind energy system shall be repaired at the applicant/owner/operator's expense. For each wind energy system:

- The applicant/owner/operator, Centerville Township and the Leelanau County Road Commission shall agree upon and document construction routes and public road conditions before construction begins.
- The applicant/owner/operator shall provide security in an amount to be agreed upon by the applicant/owner/operator and Centerville Township with guidance from applicable experts, including the Leelanau County Road Commission, to be used by the Township and/or the Leelanau County Road Commission to pay for the repair of damage to public roads.
- Failure of the applicant/owner/operator to provide these funds shall result in termination of the Permit.

### Section 3.19.3 PERFORMANCE AND REGULATORY STANDARDS

All commercial wind energy systems and testing structures shall comply with the performance and regulatory standards set forth in this section.

#### Section 3.19.3.1 Height Limit:

The maximum permitted height of an anemometer tower or a horizontal axis wind energy system shall be one hundred ninety-nine (199) feet. The Planning Commission may set a lower height limit for other types of wind turbines.

#### Section 3.19.3.2 Setbacks:

- Property line and road setback: The setback of an anemometer tower or a wind energy system from any adjoining property line and any adjoining private or public road shall be no less than ten (10) times the diameter of the rotor. If necessary, the owner/operator shall secure recorded lease agreements or easements with adjoining property owners to achieve the setback requirements.
- Inhabited structure setback: The setback of an anemometer tower or a wind energy system from any inhabited structure shall be no less than five (5) times the total height of the wind energy system.
- Lake Leelanau Setback: The setback of an anemometer tower or a wind energy system from Lake Leelanau, as measured from the ordinary high water mark, shall be no less than ten (10) times the diameter of the rotor.
- Wetland Setbacks: The setback of an anemometer tower or a wind energy system from the delineated boundary of wetlands shall be no less than ten (10) times the diameter of the rotor.
- Setbacks to Other Sensitive Areas: The setback of an anemometer tower or a wind energy system from other sensitive areas, except as specified herein shall be no less than ten (10) times the diameter of the rotor.
- Sleeping Bear Dunes National Lakeshore Setback: The setback of a wind energy system from the boundary of Sleeping Bear Dunes National Lakeshore shall be no less than three (3) miles.

#### Section 3.19.3.3 Spacing:

Adjacent wind energy systems must be spaced at least one-half (1/2) mile apart.

#### Section 3.19.3.4 Tower and Turbine Design:

The wind energy system tower shall be a monopole or monotube style construction (as distinguished from a lattice-style tower) with no guy wires, exterior ladders or platforms.

#### Section 3.19.3.5 Color and Finish:

Wind energy systems shall have a non-reflective finish and shall be a non-obtrusive, neutral color that is compatible with the natural environment, such as white, gray, or beige. Wind energy systems shall not display logos, advertising or promotional materials.

#### Section 3.19.3.6 Lighting:

The Centerville Township Planning Commission shall not permit any wind energy system that requires Federal Aviation Administration-mandated lighting. Continuous nighttime lighting onsite shall not be permitted. Lighting shall be used only as needed for maintenance and inspection. Lighting shall be shielded to minimize glare, visibility and impact on wildlife and shall comply with Section 3.22 Outdoor Lighting Ordinance.

#### Section 3.19.3.7 Construction Codes, Towers and Interconnection Standards:

Wind energy systems together with all related components, including but not limited to transmission lines and transformers, shall comply with all federal, state and county requirements and standards, including applicable construction and electrical codes, local permit requirements, and applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards and IEC61400. Wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations.

#### Section 3.19.3.8 Interconnection and Electrical Distribution Facilities:

All electrical transmission lines associated with the wind energy site shall be located and maintained underground, in accordance with best practice guidelines. This requirement applies to transmission lines connecting the wind energy system(s) to the transmission provider's distribution system, but does not apply to the transmission provider's distribution system that constitutes the public electrical grid.

#### Section 3.19.3.9 Safety:

- All utility grid wind energy systems shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present.
- Signs no more than four (4) square feet in area and without advertising or promotional materials shall be posted at the wind energy system tower and at the wind energy system service drive entrance at the minimum setback distance. Signs shall display:
  - Address and telephone numbers that allow a caller to directly contact a responsible individual to deal with emergencies at any time during or after business hours and on weekends and holidays.
  - A warning about the dangers of falling ice.
- All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the wind energy system.
- The minimum vertical blade tip clearance from grade shall be twenty-five (25) feet for a wind energy system employing a horizontal axis rotor.

#### Section 3.19.3.10 Impacts on Wildlife Species and Habitat:

- Site Selection: Applicants shall follow the U.S. Fish and Wildlife Service Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines (2003) for selecting appropriate wind energy system site(s) including completing a potential impact checklist and calculating the potential impact index.
- Endangered or Threatened Species: Development and operation of a wind energy system shall not have a significant adverse impact on endangered or threatened fish, wildlife, or plant species, as defined by US Endangered Species Act of 1973 and Michigan Endangered Species Protection, Part 365 of the Natural Resources and Environmental Protection Act (Act 451 of 1994) and identified in the Michigan Natural Features Inventory, or their critical habitats, or other significant habitats identified in studies and plans of local, regional, and federal governmental bodies. The setback of an anemometer tower or a wind energy system from designated critical habitat for any endangered species shall be five (5) miles.
- Migratory Birds: Development and operation of a wind energy system shall not have a significant adverse impact on migratory bird species.
- Eagles: Development and operation of a wind energy system shall not have a significant adverse impact on eagles. The setback of an anemometer tower or a wind energy system from any known eagle's nest shall be five (5) miles.
- Imposed Conditions for Monitoring and Operation: The Centerville Township Planning Commission may impose special conditions for monitoring bird and bat fatalities and may impose special mitigation measures such as blade feathering limiting rotational speed or shut down during periods of high seasonal concentrations of migrating birds and bats and or low visibility weather conditions.

- **Monitoring: Avian and bat impact reporting:** The owner/operator shall submit a quarterly report to the Centerville Township Zoning Administrator or the Township’s designee that identifies all dead birds and bats found within five hundred (500) feet of the wind turbine generator. Reporting shall continue for at least three (3) years after turbine operations begin, or longer if required by the Centerville Township Planning Commission. Monitoring shall follow protocols referenced in this Ordinance under “Application Requirement: Avian, Bat and Wildlife Impact Analysis and Plan,” and results shall be adjusted for predation and observer bias.
  - **Notification and mitigation:** In the event of extraordinary mortality of threatened or endangered species, or discovery of an unexpected large number of dead birds and bats of any variety on site, the US Fish and Wildlife Service, Michigan Department of Natural Resources and the Environment (MDNRE) and the Centerville Township Zoning Administrator or the Township’s designee shall be notified within twenty-four (24) hours. The owner/operator shall, within thirty (30) days, submit a report to the Centerville Township Zoning Administrator describing the cause of the occurrence and the steps taken to avoid future occurrences.

**Section 3.19.3.11 Noise Regulatory Standards:**

- **Audible Noise Standard:**  
 From 6:00 A.M. until 10:00 P.M., for wind speeds from cut-in to rated-power of the wind energy system, the A scale equivalent noise level due to the wind energy system at the property line closest and at locations within one (1) mile of the wind energy system shall not exceed the greater of:
  - Thirty-five (35) dB(A) or
  - The established outdoor background sound level by more than five (5) dB(A).

From 10:00 P.M. until 6:00 A.M., the A scale equivalent noise level due to the wind energy system at the property line closest and at locations within one (1) mile of the wind turbine generator shall not exceed the established outdoor background sound level by more than three (3) dB(A). Background sound level shall be established separately for daytime (6:00 A.M.-10:00 P.M.) and for nighttime (10:00 P.M.-6:00 A.M.) values.
- **Low Frequency Noise or Infrasound Noise:** No low frequency noise or infrasound noise from wind energy system operations shall be created which causes the noise level both within the project boundary and a one-mile radius beyond the project boundary to exceed the following limits:

Octave Band Center Frequency, Hz	Sound Pressure Level (dB)
1-2	70
16	60
31.5	65
63	57
125	50
250	47



- Tonality and/or Repetitive, Impulsive Tone Penalty: In the event the audible noise due to wind turbine operations exhibits tonality, contains a pure tone and/or repetitive, impulsive noise, the Audible Noise Standard shall be reduced by a total of five (5) dB(A).
- Noise Complaint Investigation and Resolution: Centerville Township Zoning Administrator shall maintain a Noise Complaint Log. The Planning Commission shall review this log at least once a year to identify and address potential adverse noise impacts. During the review process, the Township can require additional sound studies to be prepared by an acoustic engineer approved by Centerville Township. Complaints shall be reported, documented and resolved in accordance with the “Complaint Resolution” section of this Ordinance.
- Noise Measurement, Analysis and Applicable Noise Control Engineering Standards: Measurement, modeling and analysis shall follow “Appendix Noise Measurement Protocols” and shall conform to the most current version of ANSI S12.18, IEC 61400 and ISO 9613. Background sound pressure level measurements and post-construction sound pressure level measurements made after installation of the wind energy system shall be done by a third party, qualified professional and shall follow “Appendix Noise Measurement Protocols” and be done according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a certified Type I or Type II sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a sound meter. Meters shall be calibrated on site before and after any measurement period.

#### Section 3.19.3.12 Shadow Flicker and Blade Glint:

- A wind energy system shall be designed to minimize shadow flicker from moving blades or reflected blade glint occurring off the site on which the facility is located. Should shadow flicker or blade glint be expected to fall on a portion of an off-site property, the system may be operated within the following conditions:
  - The flicker or glint will not exceed thirty (30) hours per year; or
  - The flicker or glint will fall more than one hundred (100) feet from an existing residence, unless the affected property owner has signed a written agreement with the owner-operator.
- If shadow flicker or blade glint violate any of these conditions, violations shall be handled by the township Zoning Administrator or township designee.

#### Section 3.19.3.13 Ice Throw:

The ice throw or ice shedding for the wind energy system shall not cross the property lines of the site on which the facility is located and shall not impinge on any public right-of-way or overhead utility line. Violations shall be handled by the township Zoning Administrator or township designee.

#### Section 3.19.3.14 Maintenance and Compliance:

In order to ensure safety and compliance with the Ordinance:

- The owner/operator shall conduct regular monitoring, physical inspections and maintenance of the wind energy system. Copies of monitoring and inspection reports and maintenance logs shall be submitted to the Centerville Township Zoning Administrator or the Township's designee at least once a year or more often if requested in writing by the Centerville Township Zoning Administrator or the Township's designee.
- Centerville Township shall have the right to inspect the premises on which the wind energy system is located and to hire a consultant to assist with any such inspection at the applicant/owner/operator's expense.

#### Section 3.19.3.15 Abandoned, Inoperable and Unsafe Wind Energy Systems and Adverse Impacts:

- Abandoned: Any wind energy system or anemometer tower that is not operated for a continuous period of nine (9) months shall be considered abandoned and subject for removal.
- Unsafe: Any wind energy system or anemometer tower that is found to present an imminent physical threat of danger to life or a significant threat of damage to property shall be shut down immediately and removed or repaired or otherwise made safe. A Michigan professional engineer shall certify its safety prior to resumption of operation. The owner/operator shall notify the Centerville Township Zoning Administrator or the Township's designee within twenty-four (24) hours of an occurrence of tower collapse, turbine failure, fire, thrown blade or hub, collector or feeder line failure, or injury.

#### Section 3.19.3.16 Removal and Site Restoration:

- Within ninety (90) days of receipt of written notification from the Township, the owner/operator shall begin to remove any wind energy system or anemometer tower
  - If the owner/operator determines the system is at the end of its useful life, or
  - If the Township determines the system is subject for removal because it is unsafe or abandoned, or
  - If the Township determines the special use permit is expired or has been revoked.
- Failure to begin to remove a wind energy system or anemometer tower within the 90-day period provided in this subsection shall be grounds for the Township to remove the wind turbine generator or anemometer tower at the owner's expense.
- All equipment associated with the wind energy system or anemometer tower including all materials above and below ground shall be removed, and the site shall be restored to a condition that reflects the specific character of the site including topography, vegetation, soils, drainage, and any unique environmental features. The restoration shall include: road repair, if any, and all re-grading, soil stabilization, and re-vegetation necessary to return the subject property to a stable condition consistent with conditions existing prior to establishment of the wind energy system. The restoration process shall comply with all state, county, or local erosion control, soil stabilization and/or runoff requirements or ordinances and shall be completed within one year.

### Section 3.19.3.17 Construction Activities:

Construction activities shall be organized and timed to minimize impacts on township residents and wildlife from noise, disruption (including disruption of wildlife habitat), and the presence of vehicles and people.

### Section 3.19.3.18 Complaint Resolution:

- Any individual, group of individuals or reasonably identifiable entity may file a signed and dated written complaint with the owner/operator of the wind energy system. Any complaints received directly by Centerville Township Zoning Administrator shall be referred to the owner/operator.
- The owner/operator of the wind energy system shall report to Centerville Township Zoning Administrator all complaints received concerning any aspect of the wind energy system construction or operation as follows:
  - Complaints received by the applicant/owner/operator shall be reported to Centerville Township Zoning Administrator or its designee within five business days, except that complaints regarding unsafe wind energy systems and serious violations of this ordinance as defined in this ordinance shall be reported to Centerville Township Zoning Administrator or its designee the following business day.
  - The applicant/owner/operator shall document each complaint by maintaining a record including at least the following information:
    - Name of the wind energy system and the owner/operator
    - Name of complainant, address, phone number
    - A copy of the written complaint
    - Specific property description (if applicable) affected by complaint
    - Nature of complaint (including weather conditions if germane)
    - Name of person receiving complaint, date received
    - Date reported to Centerville Township Zoning Administrator
    - Initial response, final resolution and date of resolution
- The applicant/owner/operator shall maintain a chronological log of complaints received, summarizing the above information. A copy of this log, and a summary of the log by type of complaint, shall be sent on or before January 15, March 15, July 15, and October 15 to Centerville Township Zoning Administrator, covering the previous calendar quarter. An annual summary shall accompany the January 15 submission.
- All complaints regarding unsafe wind energy systems and serious violations of this ordinance as defined in this ordinance shall be investigated on site. The complainant and a Township designee shall be invited to the investigatory meeting(s).
- The Township may designate a person to seek a complaint resolution that is acceptable to the complainant, the Township and the owner/operator. If such a resolution cannot be obtained, the Township may take action as authorized by the enforcement section of the Ordinance.
- The Township may at any time determine that a complaint shall be subject to enforcement and penalties as defined in this ordinance.

#### Section 3.19.4 Application Requirements

An application for a special use permit for a wind energy system or an anemometer tower shall meet requirements of "Procedures for Site Plan Review" and "Requirements for Site Plan" in the *Centerville Township Zoning Ordinance* and shall also include all of the following information, unless expressly indicated otherwise:

##### Section 3.19.4.1 Registered in Michigan:

The applicant shall provide evidence of being registered to do business in Michigan.

##### Section 3.19.4.2 Wind Resources:

The applicant shall submit information showing adequate wind resources and summarizing site wind characteristics, including minimum, maximum and average wind speeds, directions, seasonal variations and dominant wind direction in the direction from which 50 percent or more of the energy contained in the wind flows.

##### Section 3.19.4.3 Wind Energy System Information:

The applicant shall supply the following information pertaining to the wind energy system: type, manufacturer and model, total installed height, rotor material, rated power output, performance history, safety history, electrical system, and rotor over-speed control system(s). The Township may require, at its discretion, complete wind energy system specifications and drawings and professional certification of these data.

##### Section 3.19.4.4 Manufacturers' Material Safety Data Sheet(s):

Documentation shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.

##### Section 3.19.4.5 List of Experts and Evidence of Qualifications:

The applicant shall supply the name, address and resumé or other written summary of the education, experience, and other qualifications of each expert providing information concerning the wind energy system or anemometer tower project.

##### Section 3.19.4.6 Certification of Compliance:

The applicant shall provide certification that the applicant has complied or will comply with all applicable county, state and federal laws and regulations including but not limited to:

- Copies of all such permits and approvals that have been obtained or applied for at time of the application.
- Written documentation that the applicant has notified the Federal Aviation Administration and any other applicable state and federal regulatory agencies of the proposed wind energy system or anemometer tower.

#### Section 3.19.4.7 Copies of Leases, Agreements and Recorded Easements:

The applicant shall provide written permission from the property owner(s) or from multiple property owner(s) if that is necessary to meet setback requirements. Before a special land use permit shall be granted by the Planning Commission, the applicant shall submit copies of leases and all recorded agreements and easements, such as non-development agreements within a specified setback and/or easements for rights-of-way, from all affected landowners and governmental units. Easements shall be recorded prior to a special land use permit being issued.

#### Section 3.19.4.8 Site Plan:

The applicant shall submit vicinity maps and site plans showing the physical features and land uses of the project area. The vicinity maps and site plan drawings shall meet requirements listed in the *Centerville Township Ordinance* under “Requirements for Site Plan” for special uses. The vicinity maps and site plans shall also include maps, plans, section and elevation drawings and written specifications in sufficient detail to clearly describe the following: *(The following are either not included or included to a lesser standard in Section 13.1)*

- With vicinity map(s)
  - Existing zoning districts, land uses, including all dwellings, public and private airstrips within two (2) miles of the boundary of the property upon which the commercial wind energy facility is to be located.
  - Planned land uses (based on the current *Leelanau General Plan* and the *Centerville Township Master Plan*) within two (2) miles of the boundary of the property upon which the commercial wind turbine generator facility is to be located.
- With vicinity map(s), site plan(s) and written specifications as required
  - Location of all proposed new infrastructure above and below ground related to the project including meteorological and wind testing towers
  - Location of existing and proposed electrical lines and facilities.
  - Proposed setbacks
  - Location of all known active or abandoned wells within 1300 feet of any proposed construction.
  - Identification and location of sensitive areas and sensitive environmental resources that are in the vicinity of the proposed wind turbine, including but not limited to endangered or threatened flora or fauna or their critical habitats, and other significant habitats identified by government and other authoritative sources. The vicinity map and site plan shall cover a radius that is large enough to address all setbacks required by the Zoning Ordinance.
  - Ingress and egress information including:
    - Location, grades, dimensions and surfacing materials of all temporary and permanent on-site and access roads.
    - Distances from the nearest county or state maintained road.
    - Evidence of compliance with standards required for year-round emergency access.
- With site plan, plan, section and elevation drawings, and with written specifications and reports as required
  - Project area boundaries and physical dimensions of the proposed project area.

- Soils on site delineated and described in a soil survey map accompanied by a report of the soil conditions based on soil borings prepared by a firm that specializes in soil borings and is approved to perform such work for the Michigan Department of Transportation. The report shall include soil and geologic characteristics of the site based upon on-site sampling and testing. The soil boring reports and the proposed plans for the foundation shall be certified by a registered Professional Engineer licensed in the State of Michigan, who is practicing in his or her area of competency.
- Location, height, and dimensions of all existing and proposed structures and fencing.
- Drawings and specifications, bearing the seal of a professional engineer licensed in Michigan, of all proposed new infrastructure above and below ground related to the project including meteorological and wind testing towers.
- Lighting on site described with a lighting plan and specifications that show location, color, type, intensity, direction, shielding and control of all on-site lighting.

#### Section 3.19.4.9 Electrical Interconnection Plan:

The applicant shall provide a plan for electrical interconnection showing methods and standards for interconnection and copies of contracts or letters of intent with the electric utility and the electric transmission service provider.

#### Section 3.19.4.10 Visual Simulations and Drawings and Viewshed Analysis:

The applicant shall provide elevation drawings, detailed computer and/or photographic simulations and other models and visual aids showing the wind energy system with all related facilities as they will appear on the proposed site from vantage points north, south, east, and west of the project starting at a ¼ mile of the site and at 2 miles, 3 miles and 5 miles of this site.

#### Section 3.19.4.11 Hazard Plan:

An application for a wind turbine generator shall be accompanied by a hazard prevention plan. At a minimum such a plan shall include the following:

- Certification by an engineer licensed in the State of Michigan that the electrical wiring between turbines and between turbines and the utility right-of-way does not pose a fire or stray voltage hazard.
- A landscape plan designed to avoid spread of fire from any source on the turbine.
- A listing of any hazardous fluids that may be used on site and manufacturers' material safety data sheet(s) as specified herein.
- Certification by an engineer licensed in the State of Michigan that the turbine has been designed to contain any hazardous fluids and a statement certifying that the turbine shall be routinely inspected to ensure that no fluids are released or leaked from the turbine or any other equipment or on the site.
- A Hazardous Materials Waste Plan complying with all federal, state, and county laws and regulations. Further, approvals or waivers, by the state Department of Environmental Quality, the state Department of Natural Resources and/or the US Army Corp of Engineers shall also be submitted prior to the issuance of any permit.

#### Section 3.19.4.12 Environmental Impact Analysis and Plan:

The applicant shall submit a report demonstrating compliance with development, design and operation recommendations contained in the current version of U.S. Fish and Wildlife Service *Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbine*. The applicant shall have a third party, qualified professional, approved by the Centerville Township Planning Commission, conduct a site characterization and evaluation study and an analysis following accepted scientific procedures to identify and assess any potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The site characterization report shall include:

- A description of the environmental characteristics of the site prior to development, i.e., topography, soils, vegetative cover, drainage, streams, creeks or ponds.
- Natural features that will be retained, removed and/or modified including vegetation, drainage, hillsides, streams, wetlands, woodlands, wildlife and water. A description of the areas to be changed shall include their effect on the site and adjacent properties. An aerial photo may be used to delineate the areas of change.
- Identify natural resources that may be potentially impacted and associated mitigations.

The applicant shall provide a plan and take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis and to demonstrate compliance with applicable parts of the *Michigan Natural Resources and Environmental Protection Act* (Act 451 of 1994, MCL 324.101 et seq.). The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

#### Section 3.19.4.13 Avian, Bat and Wildlife Impact Analysis and Plan:

The applicant shall have a third-party, qualified professional, approved by the Centerville Township Planning Commission, conduct a site wildlife characterization and evaluation study and an analysis to identify and assess any potential impacts on wildlife, especially birds, bats and endangered species, following accepted scientific procedures. Avian studies shall follow protocols described in the National Wind Coordinating Committee, *Studying Wind/Energy Interactions: A Guidance Document*, 1999 and the U.S. Fish and Wildlife Service *Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines*, Federal Register: July 10, 2003 (Volume 68, Number 132). The applicant shall submit this study and shall provide a plan and take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis and to demonstrate compliance with *Michigan Endangered Species Protection, Part 365 of the Natural Resources and Environmental Protection Act* (Act 451 of 1994). The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

#### Section 3.19.4.14 Noise Report:

The applicant shall submit a noise report prepared by an acoustic engineer approved by the Centerville Township Planning Commission that includes, at a minimum, the following:

- Measurements of the existing sound environment.
- Modeling and analysis in order to confirm the wind energy system will not exceed the maximum permitted sound pressure levels.
- A sound and vibration assessment as specified in the Appendix of this Ordinance.
- A description of the wind energy system's noise characteristics, including manufacturer's noise data, and the project's proposed noise control features, including specific measures proposed to mitigate noise impacts for sensitive receivers.
- Evidence of compliance with Noise Measurement, Analysis and Applicable Noise Control Engineering Standards referenced herein.

During the review and approval process, the Centerville Township Planning Commission may seek independent professional verification of information presented by the applicant.

#### Section 3.19.4.15 Shadow Flicker and Blade Glint:

The applicant shall submit:

- A shadow flicker and blade glint analysis and computer simulation or model including topography and structures. The analysis and model shall identify the locations of shadow flicker and blade glint caused by the wind energy system and the expected durations of the shadow flicker and blade glint at these locations from sunrise to sunset over the course of a year. The analysis and model shall identify problem areas where shadow flicker or blade glint may affect parcels of land, roadways, and existing or future structures. The analysis and model also shall describe measures that shall be taken to eliminate or mitigate the problems, including, but not limited to, a change in siting of the facility, a change in the operation of the facility, or grading or landscaping mitigation measures.
- Copies of agreements signed with adjacent property owners affected by shadow flicker and/or blade glint.

#### Section 3.19.4.16 Ice Throw and Blade Throw:

The applicant shall submit:

- A report on the incidence of blade throw and ice throw for similar equipment,
- An analysis and calculations of blade and ice throw potential, and
- A plan showing locations likely to be affected by blade throw and by ice throw under a variety of conditions.



#### Section 3.19.4.17 Decommissioning Removal and Restoration Plan:

The applicant shall submit a decommissioning removal and restoration plan describing the intended disposition of the wind energy system and all equipment associated with the system upon termination of the lease, revocation of the permit, or at the end of the system's useful life.

The plan shall include:

- The anticipated life of the project,
- Any agreement with the landowner regarding equipment,
- The estimated decommissioning costs in current dollars, and
- The anticipated manner in which the project will be decommissioned and the site restored.

#### Section 3.19.4.18 Complaint Resolution Plan:

The applicant shall submit to Centerville Township Zoning Administrator the procedures it will use to receive and respond to complaints about its wind energy system(s) and facilities.

Procedures shall include provisions for immediate response to complaints regarding unsafe wind energy system(s) and serious violations of this ordinance as defined in this ordinance.

#### Section 3.19.4.19 Separability:

If any part of this ordinance is determined by a court of competent jurisdiction to be invalid, that judgment shall not affect the remainder of this ordinance. The invalid part of the ordinance shall be considered to be separated from the rest, which shall remain in effect.

### 3.19.5 APPENDIX NOISE MEASUREMENT PROTOCOLS

#### Section 3.19.5.1 Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Wind Energy System:

The purpose is first to establish a consistent and scientifically sound procedure for estimating existing (ambient) background sound and vibration levels in a project area, and second to determine the likely impact that operation of a new wind energy system will have on the existing sound and vibration environment.

The characteristics of the proposed wind energy system and the features of the surrounding environment will influence the design of the sound and vibration study. Site layout, types of wind turbine generators selected and the existence of significant local sound and vibration sources and sensitive receivers should be taken into consideration when designing a sound and vibration study. It will be necessary to have a qualified consultant conduct the sound and vibration study.

Note: Consult with Centerville Township Planning Commission prior to conducting any sound and vibration measurements. These guidelines are meant to be general in nature and may need to be modified (with approval of the Centerville Township Planning Commission) to accommodate unique site characteristics. Consult with Centerville Township Planning Commission for guidance on study design before beginning the sound and vibration study. During consultation, good quality maps or diagrams of the site will be necessary. Maps and diagrams should show the proposed project area layout and boundaries and identify important landscape features as well as significant local sound and vibration sources and sensitive receivers.

### Section 3.19.5.2 Sound level Estimate for Proposed Wind Energy System:

- A suitable model must be selected (or developed) to predict the worst-case noise level at all relevant and sensitive receivers. The report should include:
  - The propagation model used for prediction;
  - An estimate of model accuracy;
  - Assumptions used as input, including allowances for wind direction, noise absorptions due to air, ground, topographical and wind effects.
- In order to estimate the sound and vibration impact of the proposed wind energy system on the existing environment an estimate of the sound and vibration produced by the proposed wind turbine generator(s) must be provided.
  - Provide the manufacturer's sound level characteristics for the proposed wind energy system(s) operating from cut-in speeds to the rated power wind speed of the wind turbine generator(s). Include an unweighted octave-band (16, 31.5, 63, 125, 250, 500, 1K, 2K, 4K, and 8K Hz) analysis for the wind energy system(s) operating from cut-in speeds to full rated power at sensitive receivers, at property lines and for distances from adjacent property lines to 5,000 feet from the wind energy system(s) using 500 foot intervals. For locations beyond 2,500 feet from the wind energy system, the Planning Commission may increase the interval size if applicant can demonstrate low likelihood of noise problems.
  - Estimate the sound levels for the proposed wind energy system(s) in dB(A) and dB(C) at sensitive receivers, at adjacent property lines and for distances from adjacent property lines to 5,000 feet from wind energy system (s). For locations beyond 2,500 feet from the wind energy system, the Planning Commission may increase the interval size if the applicant can demonstrate low likelihood of noise problems. For projects with multiple wind energy systems, the combined sound level impact for all wind energy system(s) operating at cut-in speeds and full rated power must be estimated.
  - Estimate the sound levels for the proposed wind energy system(s) at sensitive receivers, at property lines and for distances from the wind energy system(s) of 500 to 5,000 feet using 500 foot intervals allowing for the propagating effect of wind downwind from the wind energy system(s) at integer wind speeds from cut-in wind speed to the rated power wind speed of the wind energy system(s).
- Provide a contour map of the expected sound level from the new wind energy system(s), using 5dB(A) increments created by the proposed wind energy system(s) extending out to a distance of 5000 feet.
- Determine the impact of the new sound and vibration source on the existing environment. For each measuring point used in the ambient study:
  - Identify if the point is a sensitive receiver
  - Report expected changes to existing sound levels for  $L_{ave}$ ,  $L_{10}$ ,  $L_{50}$ , and  $L_{90}$  in DB(A).
  - Report expected changes to existing sound levels for  $L_{ave}$ ,  $L_{10}$ ,  $L_{50}$ , and  $L_{90}$ , in DB(C).
  - Identify and describe impulsive noise and pure tone noise components.
  - Report all assumptions made in arriving at the estimate of impact and any conclusions reached regarding the potential effects on people living near the project area.
  - Include an estimate of the number of hours of operation expected from the proposed wind energy system(s) and under what conditions the wind energy system(s) would be expected to run.

### Section 3.19.5.3 Measurement of the Existing Sound and Vibration Environment:

An assessment of the proposed wind energy system project area's existing background sound and vibration environment is necessary in order to predict the likely impact resulting from a proposed project. The following guidelines must be used in developing a reasonable estimate of an area's existing sound and vibration environment. All testing is to be performed by an acoustical testing engineer approved by the Centerville Township Planning Commission. All measurements are to be conducted with industry certified testing equipment. All test results must be reported to the Centerville Township Planning Commission.

- Sites with no existing wind energy systems
  - Background sound level measurements shall be taken as follows:
    - At all properties within the proposed wind energy system project boundaries
    - At all properties within a one mile radius of the proposed wind energy system project boundaries.
  - One test must be performed during each season of the year.
    - Spring March 15 - May 15
    - Summer June 1 - September 1
    - Fall September 15- November 15
    - Winter December 1- March 1
  - All measurement points shall be located in consultation with the property owner(s) and shall be located such that no significant obstruction (building, trees, etc.) blocks sound and vibration from the site.
  - Duration of measurements shall be a minimum of ten continuous minutes for each criterion at each location.
  - One set of measurements shall be taken during each of the following four periods:
    - Morning (6 - 8 a.m.)
    - Midday (12 noon - 2 p.m.)
    - Evening (6 - 8 p.m.)
    - Night (10 p.m. - 12 midnight)
  - Background sound level measurements must be made on a weekday of a non-holiday week. Background sound shall not be measured during sporadic noise events such as seasonal farming activities, unusual traffic or weather events that would distort the establishment of a baseline level representative of the L<sub>90</sub> rural environment.
  - Measurements must be taken at 6 feet above the ground and at least 15 feet from any reflective surface.
  - For each measuring point and for each measurement period, provide each of the following measurement criteria:
    - Unweighted octave-band analysis (16.2, 31.5, 63, 125, 250, 500, 1K, 2K, 4K, and 8K Hz)
    - L<sub>ave</sub>, L<sub>10</sub>, L<sub>50</sub>, and L<sub>90</sub> in dB(A)
    - L<sub>ave</sub>, L<sub>10</sub>, L<sub>50</sub>, and L<sub>90</sub> in dB(C)
    - A narrative description of any intermittent sounds registered during each measurement
    - Wind speed at time of measurement
    - Wind direction at time of measurement
    - Description of the weather conditions during the measurement including atmospheric pressure, temperature, humidity, and precipitation.

- Provide a map and/or diagram clearly showing:
  - The layout of the project area, including topography, the project boundary lines, and property lines
  - The locations of the measuring points
  - The minimum and maximum distance between any measuring points
  - The location of significant local sound and vibration sources
  - The distance between all measuring points and significant local sound and vibration sources
  - The location of all sensitive receivers including but not limited to: schools, day-care centers, residences, residential neighborhoods, places of worship, and elderly care facilities.
- Sites with existing wind energy systems
  - Two complete sets of sound level measurements must be taken as defined below:
    - One set of background sound level measurements with the wind energy system(s) off
    - One set of sound level measurements with the wind energy system(s) running.
  - Sound level measurements shall be taken as for sites with no existing wind energy systems.

#### Section 3.19.5.4 Post-Construction Measurements:

- Within twelve months of the date when the wind energy system is fully operational, and within two weeks of the anniversary date of the pre-construction background sound level measurements, repeat the existing sound and vibration environment measurements taken before the project approval. Post-construction sound level measurements shall be taken both with all wind turbine generator(s) running and with all wind turbine generator(s) off. Measurements should include sound levels for the wind energy system(s) at sensitive receivers downwind from the wind energy system(s) at a range of wind speeds from cut-in wind speed to the rated power wind speed of the wind energy system.
- Report post-construction measurements to the Centerville Township Planning Commission in the same format used for the pre-approval sound and vibration studies. Measurements shall be available for public review.

**SECTION 3.20 AGRICULTURAL TOURISM**

**Section 3.20.1 Intent, Goals, Purposes, and Limits**

The intent of this zoning provision is to support the economic sustainability and resiliency of local farming by allowing flexibility for a farmer to meet changes in market, social and environmental conditions through agricultural tourism and accessory uses compatible with the rural character of the township. Agricultural tourism means the practice of visiting an agricultural operation for the purposes of purchase, recreation, education, or active involvement in the operation; not as a contractor or employee of the operation. For farms that are actively growing products for sale, agricultural tourism uses can provide improved sales, marketing and additional income opportunities.

- A. The goals of these provisions are:
  - 1. To maintain and promote agriculture and related activities.
  - 2. To preserve open space and farmland.
  - 3. To maintain the township's agricultural heritage and rural character.
  - 4. To increase community benefits by having fresh, local agricultural products for sale and working classrooms to educate school children and other residents and tourists.
  - 5. To increase agriculturally related businesses that contribute to the general economic condition of the area and region.
  
- B. The purposes of these provisions are:
  - 1. To provide standard definitions related to agricultural tourism uses.
  - 2. To provide a list of permitted agricultural tourism uses for working farms.
  - 3. To provide a mechanism for allowing creative uses that need a special land use permit to guide and regulate agricultural tourism uses on working farms.
  - 4. To provide for a clear understanding of the expectations for agricultural tourism uses for farm operators, local residents, other businesses and local officials.
  
- C. The limits of these provisions are:
  - 1. Agricultural tourism uses are allowed only on working farms. Working farms are those operations which are providing agricultural products for sale. These sales must contribute to the farm operator's income. The working nature of the farm must be documented including control of the land being farmed and income/expense documentation such as sales receipts, IRS Schedule F, or other documentation that the township agrees is satisfactory.
  - 2. A farm's size must be adequate to accommodate any agricultural tourism use so as not to create a nuisance or a hazard. Issues affected by farm size include, but are not limited to, setbacks for noise abatement, adequate off road space, and adequate parking areas.
  - 3. Agricultural tourism uses must meet all township zoning ordinances plus all health, building, road, safety and all other applicable local, state and federal regulations and codes.
  - 4. Agricultural operations whose gross revenues are solely or primarily derived from alcoholic products are not included under these provisions. This Section does not

expand uses permitted for production, processing, or sale of alcoholic products or otherwise reduce the restrictions applicable under state or local laws.

5. Documentation that an agricultural tourism use is operating within these limits must be made available to the township upon request.

**Section 3.20.2 Agricultural tourism uses, within the limits set above, permitted by right for working farms in any zoning district.**

A. Agriculturally related uses include the following, as well as other substantially similar uses or activities that occur as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products:

1. Road side stands
2. On-farm market
3. Direct to customer sale and distribution
4. Value-added (other than alcohol products) processing of products grown on the farm
5. Baking for sale at the on-farm market or local farmers markets
6. Corn & hay mazes
7. Sleigh & hay rides
8. Horse rides
9. U-Pick farms

B. Small non-agriculturally related events meeting the following:

1. Under 100 people and no more than 2 events per month with a total of no more than 6 per year
2. Subject to notification to the Zoning Administrator at least 7 days in advance of the event, and the event must comply with the applicable requirements in Section 4.24.3 (i.e. parking, noise, etc.)

**Section 3.20.3 Other agricultural tourism use or uses accessory to a working farm's operation may be approved subject to site plan review per Article 13 of the Zoning Ordinance.**

Potential uses covered under this section are ancillary to the farm on which they are located, but utilize the rural character of the farm and the township as an asset for the business. Examples of uses envisioned under this section include, but are not limited to: wedding venues, lodging options such as inns and cabins, restaurants, and extended homestead and farm experiences including lodging. The intent of this section is to provide guidelines for ideas for such ancillary uses so that the uses can financially benefit the farmer, and still preserve the rural character of the farm's neighborhood and the township.

A. Uses proposed under this Section require a Special Land Use Permit and a Site Plan Review approved by the Planning Commission. Information required in the Site Plan includes but is not limited to:

1. Description of activity or event
2. Number of people involved
3. Frequency of events or activity
4. Hours of operation
5. Structures to be utilized

6. Parking plans
7. Set backs and buffering from neighbors and roads
8. Lighting
9. Noise

B. A Special Land Use Permit shall only be granted if the Planning Commission determines the applicant has submitted evidence demonstrating the following standards are met:

1. The farm is a working farm
  - a. Working farms are those operations which are growing agricultural products for sale. These sales must contribute to the farm operator's income. The working nature of the farm must be documented including control of the land being used and income documentation such as sales receipts, IRS Schedule F, or other documentation that the township agrees is satisfactory.
2. The farm has adequate space to hold parking away from the road and provide adequate set-back and buffers to neighbors.
3. The use is compatible with adjacent uses of land, the natural environment, the capacities of public services and facilities affected by the land use and will maintain the agricultural character of the location and the visual rural character of the neighborhood.
4. The use will be buffered both visually and acoustically from neighbors.
5. The use meets other applicable township ordinances, including but not limited to signage and lighting.
6. Traffic loads and road access have been reviewed and approved by the road commission.
7. Activity structures, locations and access routes have been reviewed and approved by the fire chief for safety and emergency access.
8. Structures will meet building codes.
9. Health department has reviewed and approved plans for food preparation, bathroom facilities and sanitation.

## ARTICLE IV LAND USE DISTRICTS

### **Section 4.1 Districts**

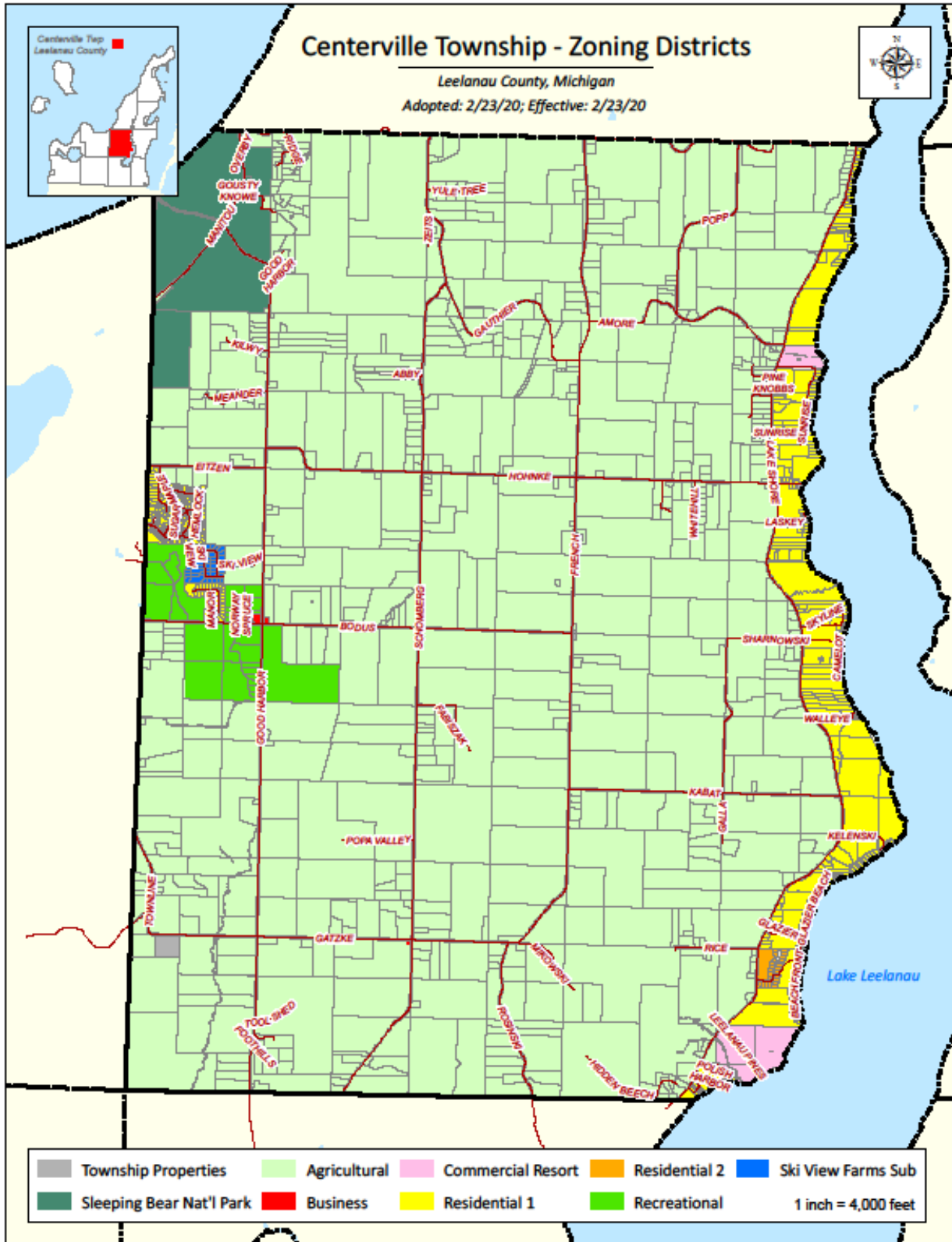
For the purposes of This Ordinance, the Township of Centerville is divided into eight (8) Land Use Districts, as follows :

- A. Residential I
- B. Residential II
- C. Ski View Farms Subdivision
- D. Commercial-Resort
- E. Recreational
- F. Business
- G. Agricultural
- H. Governmental

### **Section 4.2 Maps**

The Land Use District into which each parcel of land in the Township is placed is shown on the map entitled "Centerville Township Zoning Map" which is attached as Appendix A. Copies of this map shall be available for examination at the office of the Township Clerk at all reasonable times, and shall be kept with the records of the Zoning Administrator. 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 as they existed on the date of enactment of This Ordinance, or section or sub-section lines; but where residential district boundaries obviously are not intended to coincide with such lot lines, centerlines, or section or sub-section lines, and are not designated by dimensions, such boundaries shall be deemed to be one hundred sixty-five (165) feet away from the nearest road or street right-of-way parallel to which they are drawn. The map is for reference only, parties should check with the Zoning Administrator to confirm the zoning on any particular parcel.





**Section 4.3 Interpretation of District Boundaries**

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

- A. Boundaries indicated as approximately following the street or highways, the center lines of such streets or highways shall be considered to be such boundaries.
- B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following Township boundary lines shall be construed as following such Township boundary lines.
- D. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance there from as indicated on the official Zoning Map.
- E. Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines; boundaries indicated as approximately following the centerline of streams, rivers, canals, or other bodies of water shall be construed to follow such centerlines.
- F. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Township Zoning Board of Appeals after recommendation from the Township Zoning Administrator.

**Section 4.4 Schedule of Zoning Regulations**

Zoning District	Minimum Lot Dimension		Setback Requirements for buildings from							Maximum Building Dimensions	
	Area ft <sup>2</sup>	Width ft	Water's Edge ft	Private Easement Ft	Front	Yard ft		From Highway ft		Max Height	Max Lot Coverage
						Side	Rear	66' ROW	100'+ ROW		
Residential I	15,000	100	40	20 <sup>2</sup>	40	10	15	40	25	40	30%
Residential II	15,000	100	40	20	40	10	15	40	25	40	30%
Commercial Resort	20,000	100	40	20	40	10	15	40	25	40	25%
Recreational	40,000	100	40	20	40	10	15	40	25	40	40%
Business	22,000	100	40	20	50	25	15	40	25	40	50%
Agricultural	65,340	150	40	20	40	10	15	40	25	40 <sup>1</sup>	25%
Governmental	20,000	100	40	20	40	10	15	40	25	40	40%

<sup>1</sup> except as allowed in section 3.11 (Max Height)

<sup>2</sup> except for platted Lake Lots as of 12/05/02 where garage/accessory building minimum is 15' if the entrance does not face the easement. Setback is from the property line to the easement.

## ARTICLE V RESIDENTIAL DISTRICTS

### **Section 5.1 Districts**

The Districts of the Township, where Residential uses are permitted, shall be designated as either Residential I or II or Ski View Farms Subdivision and each shall be considered a separate District and shall be subject to the terms of this Ordinance as follows:

### **Section 5.2 Residential I**

#### A. Uses Permitted By Right:

1. Single family with attached or detached garage and other accessory buildings or a guest house.
2. Home Occupation provided that there be no external evidence of such occupation except a name sign not more than ten (10) square feet in area without illumination and of a character in keeping with the neighborhood, and provided further, that said occupation does not require nor effect any changes in the external character of the building.
3. Accessory uses and structures customarily incidental to and subordinate to the permitted principle use, including private stables and roadside stands. Private stables are permitted on lots not less than one (1) acre in size.
4. Building Lot Area - Each dwelling or other main building hereafter erected in the Residential I District shall be located on a building lot or parcel of land in accordance with Section 4.4 (Schedule of Regulations) of this Ordinance.
5. Accessory Lot - A lot to be used for parking, garage, garden or septic system, if approved by County Health Department. No restriction on lot size, except setback restrictions for accessory building will apply. Accessory lots shall be contiguous to the primary building lot, and under the same ownership.

#### B. Special Land Uses Permitted By Special Approval:

1. Public facilities including parking lots, cemeteries, parks, schools, libraries, and similar uses and activities including administrative buildings, substations or structures associated with public utilities and enclosures or shelters for service equipment and maintenance depots.
2. Churches and religious institutions including housing for religious personnel affiliated with the church or religious institution.
3. Day care, group home
4. Foster care facility, group home
5. Nursing Home
6. Bed and Breakfast

**Section 5.3 Residential II - Multiple Family - Uses Permitted**

- A. Uses Permitted By Right:
  - 1. Any use permitted by right in Residential I, Section 5.2, this Ordinance.
  - 2. Multiple Family Dwelling
  - 3. Building Lot Area - Each dwelling or other main building hereafter erected in the Residential II District shall be located on a building lot or parcel of land in accordance with Section 4.4 (Schedule of Regulations) of this Ordinance.
  
- B. Special Land Uses Permitted By Special Approval:
  - 1. Public facilities including parking lots, cemeteries, parks, schools, libraries, and similar uses and activities including administrative buildings, substations or structures associated with public utilities and enclosures or shelters for service equipment and maintenance depots.
  - 2. Churches and religious institutions including housing for religious personnel affiliated with the church or religious institution.
  - 3. Kennel
  - 4. Clinic
  - 5. Day care, group home
  - 6. Foster care facility, group home
  - 7. Nursing Home
  - 8. Bed and Breakfast
  - 9. Trailer park
  - 10. Mobile home park
  - 11. Churches and religious institutions

**Section 5.4 Ski View Farms Subdivision - Uses Permitted**

- A. Uses Permitted By Right:
  - 1. Single family dwellings and duplexes on all lots with attached or detached garage and other accessory buildings
  - 2. Multifamily dwellings on lots 9 & 17.

## ARTICLE VI COMMERCIAL RESORT DISTRICT

### **Section 6.1 Uses Permitted By Right:**

- A. Any use permitted by right in the Residential Districts I, and II, as described under Article V of the Ordinance.
- B. Single or multiple unit dwellings intended for rental with such necessary and customary accessory buildings as automobile and boat storage, utility buildings, recreational facilities, docks, boathouses, and bathing houses, all designed and used primarily to serve the regular tenants of same.

### **Section 6.2 Uses Permitted By Special Approval:**

- A. Mobile Home Parks consisting of facilities for the owner/operator, accessory buildings, and permanent or semi-permanent placement of mobile homes for year-around type residents.
- B. Rental cottages with or without housekeeping facilities in groups of two (2) or more, each cottage being a single family dwelling.
- C. Inns, lodges, hotels, motels, campgrounds, and RV parks.
- D. Trailer park
- E. Churches and religious institutions

### **Section 6.3 Required Land Areas**

No building or structure or groups of buildings or structures in this District shall be built except as in accordance with section 4.4 (Schedule of Regulations) of this Ordinance. Spacing of buildings along the setback line from the water's edge shall be such that there shall not be more than one building to each fifty (50) feet of frontage.

### **Section 6.4 Spacing of Separate Buildings**

To prevent overcrowding of buildings and structures and to reduce fire hazard, no separate buildings shall be built closer than twenty (20) feet apart.

### **Section 6.5 Accessory Buildings**

Buildings and structures for accessory uses customarily incidental to any of the uses permitted in this District shall be subject to the same provisions of location, spacing and land occupancy as the primary buildings permitted in this District and their area shall be computed as part of the maximum total area of land occupancy permitted.

### **Section 6.6 Driveways and Off-Street Parking**

All developments of Land-Use permitted in this District shall, to reduce fire hazard and make possible access to all buildings by the Fire Department, provide a driveway to each building with not less than twenty (20) feet clear right-of-way and each such development shall provide off-street parking for one and one half (1.5) automobiles for each rental unit. If dining facilities are

provided in connection with any of the uses permitted in this District then off-street parking shall be provided for non-resident patrons to accommodate an automobile for each two (2) persons that the facility is legally capable of seating at one time.

***Section 6.7 Dining Facilities Limitations***

Dining Facilities in this District shall be limited to those attached to or in conjunction with inns, lodges, hotels and motels having accommodations for ten (10) or more individuals or family rental units. Independent restaurants and/or drive-ins are not to be permitted in this District.

## ARTICLE VII RECREATIONAL DISTRICT

### **Section 7.1 Uses Permitted By Right**

A. Any use permitted by right in the Residential Districts I and II, as described under Article V of this Ordinance.

### **Section 7.2 Uses Permitted by Special Approval**

- A. Clubs with or without lodging and/or dining facilities, summer camps and schools, whether non-profit or operated for profit, but not including trailer parks for use of transient or seasonal guests with trailer homes.
- B. Outdoor recreational facilities, such as, but not limited to, golf courses, ski slopes and lifts, and commercial stables.
- C. Campgrounds
- D. Trailer park
- E. Mobile home park
- F. Churches and religious institutions

### **Section 7.3 Required Land Area**

No building or structure or groups of buildings or structures in this District shall be built except as in accordance with Section 4.4 (Schedule of Regulations) of this Ordinance.

### **Section 7.4 Spacing of Separate Buildings**

To prevent overcrowding of buildings and structures and to reduce fire hazard, no separate buildings shall be built closer than twenty (20) feet apart.

### **Section 7.5 Accessory Buildings**

Buildings and structures for accessory uses customarily incidental to any business activity that has been permitted in this District shall be subject to the same provisions of location, spacing and land occupancy as the primary buildings permitted in this District and their area shall be computed as part of the maximum total area of land occupancy permitted.

### **Section 7.6 Driveways and Off-Street Parking**

All developments of land use permitted in this District shall, to reduce fire hazard and provide access to all buildings by the Fire Department, provide driveway access to each building with not less than twenty (20) feet clear right-of-way. Off street parking shall be determined by the Planning Commission with the final approval by the Fire Chief.



**Section 7.7 Dining Facilities Limitations**

Dining Facilities in this District shall be limited to those in conjunction with or attached to any of the uses permitted in this District.

## ARTICLE VIII BUSINESS DISTRICT

### **Section 8.1 Purpose**

Purpose: This business district is to provide service oriented outlets in an area located to satisfy the day to day needs of the residents and visitors located near other Business and Recreational zoned areas.

#### A. Uses Permitted By Special Approval:

1. Commercial, municipal and utility uses
2. Churches and religious institutions

First floors may only be occupied by business uses. Residential uses are allowed when occupying the second floor or above.

### **Section 8.2 Off-Street Parking and Deliveries Access**

Off-street parking shall be provided either in the area of a side yard or a rear yard, or both, as determined by the Planning Commission with the final approval by the Fire Chief. Whenever possible, 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 8.3 Yard Storage**

Whenever a business establishment finds it desirable 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 in accordance with an approved Site Plan.

### **Section 8.4 Adult Entertainment**

There are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a negative effect upon adjacent areas. Special regulation of these uses is necessary in order to insure that these adverse effects will not contribute to the downgrading of the surrounding area. These special regulations are itemized in this Section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area of the township, to insure the integrity of the township's residential and agricultural areas, and to protect the integrity of churches, schools, licensed day-care facilities, parks and playgrounds, and other areas where juveniles congregate in the township. Nothing in this Section shall be construed as permitting or allowing a violation of any state or federal law or to restrict or deny access by adults to adult materials protected by the Constitution of the United States or the Michigan Constitution, or to deny access by the distributors and exhibitors of adult entertainment or adult use businesses to their intended market. It is also neither the intent nor effect of this section to condone or legitimize the distribution of obscene material.

In order to prevent undesirable concentration of such uses, adult entertainment uses and activities shall not be located within 1,000 feet of two other such uses nor within 300 feet of any residentially zoned district as measured along a line forming the shortest distance between any portion of the respective properties of the existing and proposed adult entertainment activities.

The township planning commission (where any of the foregoing regulated uses are special exceptions uses) and the township zoning board of appeals (where the foregoing regulated uses are permissible uses) may waive the foregoing spacing requirements if it finds the following conditions exist:

- A. the proposed use will not be contrary to the public interests or injurious to nearby properties in the proposed location and the spirit and intent of the purpose of the spacing regulations will still be observed;
- B. the proposed use will not promote an adverse effect upon adjacent areas by discouraging other businesses and occupants or cause a disruption in neighborhood development;
- C. the establishment of the additional regulated use in the area will not be contrary to any program of neighborhood conservation nor interfere with any program of urban renewal;
- D. where all other applicable regulations within the township zoning ordinance or other pertinent township ordinances will be observed.

All adult and sexually-oriented businesses shall be treated as a special land use and shall be subject to review and approval of the township planning commission as set forth in Article X, and shall satisfy the requirements of "major projects" under Article XIII, Site Plan Review.

## ARTICLE IX AGRICULTURAL DISTRICT

### **Section 9.1 Agricultural District: Uses Permitted**

#### A. Uses Permitted by Right

1. Including any use permitted by right in Residential I District as described under Article V of this Ordinance
2. Farms of all types including those of general farming or for specialized farming, and "Farm operations" as defined by the Michigan Right to Farm Act, 1981 PA 83, MCL 286.471 et seq.
3. Nurseries and greenhouses
4. Agricultural Labor Housing

#### B. Special Land Uses Permitted By Special Approval:

1. Land application of Septage Waste
2. Dog kennels, not less than forty (40) acres
3. Concentrated Animal Feed Operations
4. Wineries, meaderies, and cideries
5. Commercial Mining, including extracting of sand, gravel or other natural resources
6. Cemeteries
7. Bed and Breakfast establishments
8. Commercial Sawmill
9. Trailer park
10. Mobile home park
11. Churches and religious institutions

### **Section 9.2 Contiguous Zone**

Where any other Zone is contiguous to a farm located in an Agricultural District and forms a part of the farm, all farm uses and activities permitted in the Agricultural District may be carried out on such contiguous land.

### **Section 9.3 Roadside Stands**

Roadside Stands shall be permitted only for the selling of farm products and these may be located along the highway right-of-way even where the same is not zoned Agricultural, providing this location is part of the farm which produces the farm products.

### **Section 9.4 Mining or Removal of Topsoil**

A. Exempt Activities: The extraction of up to 2,000 cubic yards of topsoil, sand, clay, gravel or similar material associated with an approved building permit, landscaping project, driveway access, farming or an allowed accessory use, per calendar year.

B. The extraction and processing of sand and gravel, including block and redi-mix operations and the removal of topsoil, are permitted, subject to the following conditions in the interest of safety,

prevention of traffic hazards, reduction of excessive wind and water erosion, noise and dust, and visually shielding such operations from adjacent rights-of-way and property owners:

a. Minimum lot size - eighty (80) acres.

b. Setbacks - Unless otherwise provided by federal or state law, gravel pits, temporary buildings and structures, processing machinery, and the extraction or processing of sand and gravel shall be set back not less than: (1) Two hundred fifty (250) feet from any public right-of-way and/or from any lot line. (2) Two hundred fifty (250) feet from any lake or stream. Permanent buildings, structures, and storage of sand, gravel and machinery used for day-to-day operations shall meet setback requirements of Section 4.4. Setbacks may be used for access and haul roads provided such roads do not interfere with the effectiveness and intent of required buffers.

c. Buffers - Unless otherwise provided by federal or state law, the following shall be placed and maintained as required below: (1) Wherever possible, the existing natural vegetation shall not be removed from the required setbacks. (2) Where existing vegetation is insufficient or non-existent, three (3) rows of conifer trees (min. 8' in height) shall be stagger planted and permanently maintained on the perimeter of the lot and spaced seven (7) feet apart in accordance with the recommendations of the Leelanau County Soil Conservation District. Adjacent to road right-of-ways, trees will be planted outside the right-of way.

d. Reclamation - When supply is exhausted, pit abandoned, or after a period of two (2) years of inactivity, the owner/operator shall be responsible for rough grading the site to conform or blend with the surrounding terrain, and the entire site shall be revegetated with native vegetation using techniques and standards approved by the County Soil Erosion Control Officer. Slopes shall not be in excess of 1' on 3' (one foot of vertical elevation per three foot horizontal).

e. Signs shall be conspicuously posted around the perimeter of any lot being used for extractive operations in order to warn individuals of the hazards associated with trespass.

f. A master plan indicating the measures that will be implemented to meet the above conditions shall be submitted to the Zoning Administrator prior to the issuance of a land use permit. The master plan shall indicate a time schedule for completion of measures required by this subsection.

### ***Section 9.5 Land Application of Septage Waste as a Special Land Use***

No new sites will be permitted for the Land application of Septage Waste if an existing public wastewater treatment or septage treatment facility in Leelanau, Grand Traverse or Benzie County has the capacity to accept Septage Waste and will accept said Waste. Land application of Septage Waste is also prohibited if there is an existing private facility in Leelanau County with capacity to accept Septage Waste and will accept said Waste, provided that the rate charged for disposal of that waste is reasonable and is no greater than the average rate charged for such disposal at other public facilities in this State. To the extent that there is no capacity to dispose of Septage Waste in an appropriate facility, the disposal of Septage Waste by surface application or injection is allowed in this district subject to obtaining a special use permit as provided in this Section. The land application of Septage Waste is not a permitted use in any other district within the Township.

## A. General Provisions

Disposal of Septage Waste shall not be permitted in Centerville Township unless it is done in a manner consistent with the requirements of this Ordinance and pursuant to a special use permit issued under this Article of the Ordinance. The disposal of Septage Waste in Centerville Township shall comply with the following:

- a. State and federal agency requirements for storage, treatment, record keeping, transport and disposal of Septage Waste shall be met, which shall include but not be limited to the standards and regulations established by the Federal Environmental Protection Agency and the Michigan Department of Environmental Quality. No application of Septage Waste that may adversely impact groundwater or surface water, including direct and indirect discharges, shall be allowed except in full compliance with applicable federal, state, or local codes and ordinances.
- b. It shall not be permitted to locate, site, construct, operate, or maintain a Septage Waste disposal site, storage facility, or treatment facility, except in those land use districts in which such use is expressly allowed by a special use permit issued in accordance with the provisions of this Article.
- c. To protect the welfare and safety of the Township residents, storage, treatment or disposal of human waste in a manner that is not specifically regulated and monitored by the Federal Environmental Protection Agency and/or the Michigan Department of Environmental Quality is not an allowable use in any district.

## B. Requirements for Special Use Permit Applications.

An application for a special use permit for the disposal of Septage Waste shall contain the following information and fees:

- a. An application fee in accordance with the current Fee Schedule.
- b. Applicant's name, address, telephone number, and the name, address and telephone number of the person or persons who will be responsible for managing the collection, treatment and application of Septage Waste on a site;
- c. Documentation establishing ownership of the site by the Applicant or that the Applicant has permission from the owner to dispose of septage on the site;
- d. Legal description of the property on which the site is located, parcel tax identification number, total parcel acreage, and total acreage of the proposed site where septage will be applied;
- e. A USGS topographical map or equivalent diagram or map of the premises and surrounding area, which shall include the following information:

1. A description of natural and improved draining surface and features, including lakes, streams, springs, groundwater tables (both local and regional) and other environmentally sensitive areas within 1000 feet of the site; the location of all occupied dwellings within 1000 feet of the application site; and soil characteristics of the application site;
  2. The proposed access to the application site and how access to the site will be restricted; and proposed buffers or other measures to control drainage from the area where septage is to be applied;
- f. A written statement estimating the amount of septage that will be applied at the site, the origins of the septage to be applied at the site, and the method in which the septage will be applied;
  - g. The depths to groundwater for the entire proposed septage application site indicated by a methodology approved by the Planning Commission;
  - h. A written statement indicating compliance with all applicable federal, state and local laws. This statement shall include a waste pretreatment report indicating how all septage will be treated and screened prior to disposal on the site, as well as a cover crop management plan and tillage plan. All required state and federal permits shall be obtained prior to the special use being granted, and copies of all applicable permit approvals must be attached to the application.
  - i. Any other information necessary for the implementation of this Ordinance (which may include chemical compositions of the soils and estimated chemical composition of the Septage Waste to be disposed of at the site) as determined by the Planning Commission, the Zoning Administrator or other representative appointed by the Township Board.
  - j. No permit shall be considered by the planning commission unless it is administratively complete.

### C. Special Use Permit Decision and Standards.

The Planning Commission shall review the proposed Septage Disposal site and accompanying plans or submissions and determine whether the proposed use will meet the following criteria:

- a. Will meet all conditions imposed by sub-section D of this Section and will promote the intent and purpose of this Ordinance;
- b. Will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use;
- c. Will be consistent with the public health, safety and general welfare of the Township;
- d. The Planning Commission may also consider the need for additional Septage Disposal sites in the Township.

- e. If the Planning Commission determines that the proposed Septage Disposal meets all of the criteria of this ordinance, it shall grant a special use permit to the applicant, subject to the conditions contained in sub-section D of this Section, and any other conditions it imposes on the special use permit.

D. Special Use Permit Conditions.

The following conditions shall apply to all Special Use Permits granted under this Article:

- a. In addition to any other requirement of this Ordinance, the application of Septage Waste shall comply with all provisions of Part 117 of NREPA and all pertinent Federal Regulations, including those codified at 40 CFR 503, et seq. The standards contained in these laws and regulations are adopted as part of this ordinance by reference.
- b. All septage shall be properly treated to prevent the spread of disease and reduce offensive odors using a method approved by the relevant state and federal standards, and shall be screened prior to disposal to remove any non-organic solids in the waste.
- c. For land applied (non-injected) disposal:
  - 1. Surface application shall not be undertaken at sites with less than 4 feet separation between the deepest depth of septage application and the groundwater table. The site shall meet all required isolation distances contained in state and federal law, but shall not be less than 200 feet from any property line.
  - 2. The minimum septage disposal site size shall be at least a 5 acre portion of a commonly owned parcel.
  - 3. Septage may be disposed of by surface application while the ground is frozen so long as the requirements of Part 117 Section 324.11711(1) of NREPA are met.
  - 4. The Planning Commission may impose access restrictions, fencing, and/or signage requirements on a site where it deems appropriate.
- d. For injected septage disposal:
  - 1. Injected Disposal shall not be undertaken at sites with less than 4 feet separation between the deepest depth of septage application or injection and the groundwater table. The site shall meet all required isolation distances contained in state and federal law.
  - 2. The minimum septage disposal site size shall be at least a 5 acre portion of a commonly owned parcel.
  - 3. No septage shall be disposed of by injection while the ground is frozen.



- e. The nutrient content of septage disposed of on any site shall be controlled so that the application of septage does not overload the nutrient capacity of the site and pose an unacceptable risk of nitrate leaching into the groundwater in excess of state and federal limitations.
- f. The Township shall have the right to impose other discretionary criteria in order to effectuate the purpose and intent of this Ordinance, to protect the health, safety, and welfare of the Township residents, or to protect against pollution, impairment or destruction of the Township's natural resources.
- g. The Township shall have the right to limit the duration of a special land use permit in order to minimize the risks or adverse impacts to the public health, safety and welfare, or private or public property and the air, water or natural resources of the Township, and reserves the right of review of compliance with the conditions and limitations imposed upon such use. Any use failing to comply with such conditions and limitations may result in the termination of the special use permit by action of the planning commission upon its own initiative or upon the application of any aggrieved or other adversely affected party.

#### E. Preexisting Septage Disposal Sites

- a. Any existing septage disposal site in Centerville Township that has been used for Land Application of Septage and that was been permitted prior to May 9, 2001 by the Department of Environmental Quality and the Leelanau County Health Department shall automatically be granted a Special Use Permit under this Section and shall not have to apply for a permit under sub-sections B and C of this Section, provided that the existing septage disposal site complies with sub-sections A and D(a) and (b) of this Section. The remaining requirements of sub-section D shall not apply to the special use permit automatically under this provision, except as provided for in sub-section E(b) of this Section.
- b. The Special Use Permit automatically issued pursuant to sub-section E (a) shall expire at the time when the septage disposal permit issued by the Department of Environmental Quality for a particular site also expires. Once a Special Use Permit issued pursuant to sub-section E (a) expires, any person wishing to dispose of septage on the site is required to apply for a new permit under sub-section B and shall be subject to all of the relevant provisions of this Section, including all the conditions set forth in sub-section D.

#### F. Violations

- a. The Zoning Administrator shall have the authority to investigate compliance with any permit granted under Article XIV. The Zoning Administrator, or an appointed representative of the Township, shall be provided with copies or access to a complete record of the amount of Septage Waste that has been disposed of at the permitted site upon request.

- b. Any violation of this section constitutes a Nuisance Per Se, and any person who violates the requirements of Article XIV shall be guilty of a misdemeanor as provided in Section 16.2 of this Ordinance. However, the fine provided for in Section 16.2 shall be increased to not to exceed five hundred dollars (\$500.00) for a violation of Article XIV; and each day such violation continues shall be deemed a separate offense.

### **Section 9.6 Wineries, Meaderies, Cideries and Micro-Breweries**

This section recognizes that wineries, meaderies, cideries, and micro-breweries meeting the provisions below are appropriate farm activities, encourage crop diversification and provide economic alternatives to township farmers. Wineries, meaderies, cideries, and micro-breweries are permitted provided:

1. The facility is licensed by the US Treasury, Bureau of Alcohol, Tobacco and Firearms, and the Michigan Liquor Control Commission, and is in compliance with the regulations of the Michigan Department of Agriculture and the Michigan Department of Natural Resources.
2. The lot area is one of the following:
  - a. at least ten (10) acres which shall include a minimum of two (2) acres in agricultural production intended to be used in the wine, cider, mead or beer, maintained in accordance with generally accepted management practices.
  - b. at least four (4) acres with an additional ten (10) acres of land contiguous to the facility lot which shall include a minimum of two (2) acres in agricultural production intended to be used in the wine, cider, mead or beer, maintained in accordance with generally accepted management practices.
3. Parking, buildings and processing areas shall be set back a minimum of fifty feet from all lot lines and shall be landscaped and visually screened from adjacent properties and buffered from adjacent roads. Adaptive reuse of existing buildings is encouraged.
4. A portion of the production of the facility shall be derived from agricultural production intended to be used in the wine, cider, mead or beer grown by the producer. The facility shall maintain a ratio of at least 4 acres of agricultural production intended to be used in the wine, cider, mead or beer, grown on premises to 5000 gallons of total production.
5. Total production does not exceed 178,000 gallons in any calendar year. Total on-site sales do not exceed 178,000 gallons in any calendar year.
6. The bonded structures may occupy no more than twenty thousand (20,000) square feet above ground.
7. Retail sales shall be limited to products produced on the premises and related items such as, but not limited to, corkscrews, glasses or tableware. The sales area shall not be greater than two thousand five hundred (2,500) square feet.

8. Where retail sales of product are a function of farm markets all requirements in the ordinance for farm markets must be met.
9. Activities associated with the promotion of product usage and education may be permitted. Typical activities are beverage appreciation/education seminars, non-profit benefits, weddings, beverage and catered food events, seasonal natural events, and harvest festivals. These activities may be permitted provided:
  - a. Parking area must be off-road, fifty (50) feet from all lot lines, and appropriately screened from neighboring property. Light sources shall be directed downwards and shielded to prevent light being directed off the premises.
  - b. 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 and additional portable toilets must be provided for any guests exceeding the aforementioned number.
  - c. Outside activities may only be conducted between 8 am and 10 pm. Inside activities must be completed by 10:00 p.m.

## **ARTICLE X GOVERNMENTAL DISTRICT**

### ***Section 10.1 Established Uses***

Any and all institutions, parks, picnic grounds, public lookouts, public campgrounds, forest preserves, wildlife reservations, public recreation areas and other public lands, grounds or areas under the control of Governmental authorities other than the Township of Centerville, County of Leelanau, shall so remain and shall not be part of This Ordinance.

## ARTICLE XI NON-CONFORMING USES

### **Section 11.1 Continuanace**

At the discretion of the owner, the lawful use of any parcel of land, building or structure existing at the time of enactment of this Ordinance, although such use does not conform with the provisions hereof, may be continued as subject to the following:

### **Section 11.2 Voluntary or Involuntary Discontinuance**

A non-conforming use existing at the time this Ordinance takes effect may be continued, except that if it is discontinued for eighteen (18) months or more, it shall then be deemed abandoned and any further use must be in conformity with the use permitted in such District.

### **Section 11.3 Completion of Construction**

Any building or structure arranged, intended or designed for a non-conforming use, the construction of which has been started at the time of the passage of this Ordinance, but not completed, may be completed and put to such non-conforming use, providing it is done within one (1) year after this Ordinance takes effect.

### **Section 11.4 Involuntary Destruction**

Any building or structure existing as a non-conforming use under the terms of this Ordinance, which is destroyed by fire or the elements, may be reconstructed and restored in such a manner as to be non-conforming as per before the destruction, providing the same is commenced within one (1) year from the date of such destruction, and completed within a reasonable time thereafter not exceeding two (2) years from the date of the destruction.

### **Section 11.5 Extension**

No non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance, unless a variance is granted by the Zoning Board of Appeals, which shall hold a public hearing on the proposed expansion.

## ARTICLE XII PROHIBITED USES

### **Section 12.1 Any Obnoxious Uses**

No building or structure or any part thereof shall be erected, altered or used or land or premises used in whole or in part, for any of the following uses in any District under this Ordinance: any process or activity resulting in the emission of odor, fumes, dust, smoke, waste, noise or vibration which shall make it obnoxious to the public interest, health, or welfare.

### **Section 12.2 Specific Provision for Use**

No building or structure or any part thereof, shall be erected, altered or used, or land or premises used in whole or in part for any use in any District which is not specifically permitted in such District by the terms of this Ordinance.

### **Section 12.3 Outdoor Storage**

No land in any of the foregoing Districts shall be used in whole or in part for the storage of unused or discarded equipment or materials, or for the storage of unlicensed cars, boats, salvage, waste, tires and junk outside of properly authorized buildings within said Districts, except as follows:

- A. As required for the display of used merchandise normal to the operation of a marina.
- B. As normal to the operation of a used car lot.
- C. As provided for in Article VIII, Section 8.4, Yard Storage of this Ordinance.
- D. As required for the storage of usable farm machinery necessary to the various uses of land permitted in the Agricultural District.

## ARTICLE XIII PROCEDURES FOR SITE PLAN REVIEW

### **Section 13.1 Requirements for Site Plan**

Site Plan Review and approval of all development proposals listed below is required by the provisions of this Section. All single family residential developments are exempt from site plan review, except as noted in A below. The intent of this Section is to provide for consultation and cooperation between the developer and the Planning Commission so that both parties might realize maximum utilization of land and minimum adverse effects upon the surrounding land uses consistent with the requirements and purposes of this Ordinance. One or more provisions of this Section may be waived by the Planning Commission if, in the opinion of the Planning Commission, those provisions are not applicable to the proposed development. Through the application of the following provisions, the attainment of the aims of the Centerville Township Master Plan will be assured and the Township will develop in an orderly fashion.

#### A. Uses Requiring Site Plan Review.

A site plan shall be submitted to the Planning Commission for approval of any use in the Business, Commercial Resort, Recreational and R-II zones, and shall also be required in the following situations:

- a. All Special uses in all districts.
- b. Any use of development for which the submission of a site plan is required by any provision of this Ordinance.
- c. All site condo and condominium subdivisions developed pursuant to the Condominium Act (MCLA 559.101 et seq.) and all development which falls under the requirements of the Land Division Act of 1996 as amended (MCLA 560.101 et seq.).
- d. All additions to existing non-conforming uses except for single-family residential.

#### B. Application for Site Plan Review.

An application for Site Plan Review shall be submitted to the Zoning Administrator. The detailed site plan presented for consideration shall contain all information required in this Ordinance. The Zoning Administrator shall determine that the Site Plan Application is administratively complete before submitting it to the Planning Commission.

- a. Each submittal for Site Plan Review shall be accompanied by an application and site plan in the quantities specified in E of this Section. The application shall at a minimum, include the following:
  1. The applicant's name, address, e-mail, and phone number in full.

2. Proof of property ownership, and whether there are any options on the property, deed restrictions, or any liens against it.
  3. A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.
  4. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s).
  5. The address and property tax number of the property.
  6. Name, phone number, e-mail, and address of the developer (if different from the applicant).
  7. Name, phone number, e-mail, and address of the engineer, architect and/or land surveyor.
  8. Project title.
  9. Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, hours of operation if applicable and related information as pertinent or otherwise required by this ordinance.
  10. A vicinity map drawn at a scale of 1" = 2000' with north point indicated.
  11. The gross and net acreage of all parcels in the project.
  12. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.
  13. Project completion schedule/development phases.
  14. Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands.
- b. The site plan shall consist of an accurate, reproducible drawing at a scale of 1" = 100' or less, showing the site and all land within 300' of the site. If multiple sheets are used, each shall be labeled and the preparer identified. Each site plan shall depict the following unless previously waived by the Centerville Township Planning Commission:
1. Location of proposed and/or existing property lines, dimensions, legal description, setback lines and monument locations.

2. Existing topographic elevations at two-foot intervals, proposed grades and direction of drainage flow.
3. The location and type of existing soils on the site and any certifications of borings.
4. Location and type of significant existing vegetation.
5. Location and elevations of existing watercourses and water bodies, including county drains and man-made surface drainage ways, floodplain and wetlands.
6. Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building.
7. Proposed location of accessory structures, buildings and uses, including but not limited to all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.
8. Location of existing public roads, right-of-ways and private easements of record and abutting streets.
9. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development. Details of entryway and sign locations should be separately depicted with an elevation view.
10. Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.
11. Location, size, and characteristics of all loading and unloading areas.
12. Location and design of all sidewalks, walkways, bicycle paths and areas for public use.
13. Location of water supply lines and/or wells, including fire hydrants and shut off valves, and the location and design of storm sewers, retention and detention ponds, waste water lines, clean-out locations, connection points and treatment systems, including septic systems if applicable.
14. Location of all other utilities on the site including but not limited to natural gas, electric, cable, telephone and fiber optic.
15. Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.



16. Location, size and specifications of all signs and advertising features with cross-sections.
17. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
18. Location and specifications for all fences, walls, and other screen features with cross-sections.
19. Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.
20. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
21. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.
22. Identification of any site amenities or natural features.
23. Identification of any views onto or from the site to or from adjoining areas.
24. North arrow, scale and date of original submittal and last revision.
25. Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the plan.
26. Deed restrictions, Master Deed restrictions, and bylaws as applicable, for Township review to insure that the condominium subdivision, or any use or development which requires site approval, its Master Association, and the applicant have provided for the continual maintenance of the development's services and facilities, to insure protection of the natural environment; compatibility with adjacent uses of land; and general upkeep of the subdivision's land in a socially and economically desirable manner.

### C. Site Plan Review and Approval

- a. The Planning Commission as specified in this Section, shall review and approve, review and approve with conditions, or review and deny all site plans submitted under this Ordinance. Each site plan shall comply with the "Standards for Granting a Site Plan Approval" as described in H of this Section. Each action taken with reference to site plan review shall be duly recorded in the official record of action by the Planning

Commission. The Zoning Administrator shall forward any site plan received to the Planning Commission for review. Prior to any final decision, the Centerville Township Planning Commission may seek the recommendation of the Leelanau County Department of Building Safety, Planning Director, appropriate community fire chief, the Leelanau County Road Commission, Leelanau County Health Department, Leelanau County Drain Commissioner, the Department of Transportation, the Michigan Department of Environmental Quality, and any other agency or official deemed necessary and having jurisdiction in the area of the proposed development. After approval of a site plan there shall be a twenty one (21) day waiting period, to allow for any appeals to the site plan to be filed.

- b. Site plans for towers shall be acted upon within 60 days of receipt by the Centerville Township Planning Commission of a complete application and site plan meeting the requirements in B of this Section. Following approval of a site plan and after the twenty-one day waiting period for appeals, the petitioner shall apply for the appropriate County and/or State permits as may be required by said agencies and present appropriate plans and specifications as may be required by such agencies.

D. Procedures for Submission and Review of Application for Major Projects.

- a. All developments ten thousand (10,000) square feet, or greater, of structure or greater than ten (10) acres in size, are major projects which require preliminary site plan review by the Planning Commission pursuant to the requirements below. All other projects may be either minor projects (see E below) subject to review and approval by the Planning Commission or amendments to existing site plans which are processed pursuant to the requirements in M of this Section below.

b. Submission Requirements.

The applicant shall complete and submit the required number of copies of an application for Site Plan approval, site plans, and other information where applicable (see F: Distribution of Required Copies and Action Alternatives). Compliance with the requirements of the Zoning Ordinance is mandatory. The applicant or his/her representative must be present at each scheduled review or the matter will be tabled for a maximum of two consecutive meetings due to lack of representation. After two meetings, reapplication for site plan review will be necessary. The procedure for processing major project site plans includes three phases: conceptual review via a pre-application conference, preliminary site plan review and final site plan approval.

c. Pre-application Conference.

During this conceptual review phase, a generalized site plan is presented by a prospective applicant for consideration of the overall idea of the development. Basic questions of use, density, integration with existing development in the area and impacts on the availability of public infrastructure are discussed. A prospective applicant with the Planning Commission and Zoning Administrator schedules this conference. At this meeting the applicant or his/her representative is also presented with the applicable procedures required by the Ordinance for approval of the proposed development and

with any special problems or steps that might have to be followed, such as requests to the Board of Appeals for a variance.

d. Preliminary Site Plan Review.

The second phase is called Preliminary Site Plan Review. At this step a preliminary site plan meeting is scheduled. This meeting will be handled as a public hearing. Notice of the public hearing will be made according to Act 110 of Public Acts of 2006, as amended, and the Public Notification Section of the Centerville Township Zoning Ordinance. Verification of the Applicant's compliance with the submittal requirements of this Ordinance (see G in this Section) is reviewed by the Planning Commission, and the changes necessary, if any, for final site plan approval are indicated in writing to the applicant.

e. Final Site Plan Review.

Final Site Plan approval shall be considered by the Planning Commission at a regular meeting. The Planning Commission shall indicate in writing that all requirements of the Ordinance, including those of other reviewing agencies within Centerville Township, have been met, including any conditions that may be necessary. Where the applicant is dependent upon the grant of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals is necessary before final site plan approval can be granted. An approved site plan shall include a note referencing the case number and date of all variances granted.

f. Data submittal requirements are be specified in F (f) of this Section.

E. Procedures for Submission and Review of Application for Minor Projects.

a. All developments less than ten thousand (10,000) square feet of structure, and ten (10) acres in size or smaller, are minor projects which may be reviewed by the Planning Commission pursuant to the requirements below. All other projects may be either major projects (see D of this Section) subject to review and approval by the Planning Commission or amendments to existing plans which are processed pursuant to the requirements in M of this Section.

b. The Planning Commission may review and approve the following site plans:

1. Accessory uses incidental to a conforming existing use where said use does not require any variance and where said site plan conforms with all the requirements of this Ordinance.
2. Expansion and/or addition to an existing conforming use where said site plan conforms with all the requirements of this Ordinance and does not increase the size of the existing use or structure more than ten percent (10%) of the present size.
3. Accessory storage buildings in all Zoning Districts.

4. Increases in off-street parking areas, parking buildings and/or structures, increases in loading/unloading spaces in commercial and industrial Zoning Districts, and landscape improvements as required by this Ordinance.
  5. For those conditional land uses so specifically identified in this Ordinance.
  6. Amendments to approved site plans.
  7. Final site plans.
- c. The Planning Commission shall apply all applicable standards and procedures of this Ordinance in approving, conditionally approving or denying site plans.
  - d. Data submittal requirements shall be as specified in F (f). below.

F. Distribution of Required Copies and Action Alternatives.

Where Site Plan Review is required by this Ordinance, an applicant for Site Plan Approval shall complete and submit copies of an Application for Site Plan Approval, site plans, and other information where applicable, as set forth below.

- a. The Application for Site Plan Approval must be obtained from the Planning Commission. The applicant is asked to keep one copy for his/her records. The applicant shall return the original and six (6) copies of the application and seven (7) copies of the Site Plan to the Planning Commission at least thirty (30) days prior to the next regularly scheduled meeting of the Planning Commission for the purpose of preliminary site plan review.
- b. The entire application (including Application for Site Plan Review and Site Plan) must be distributed as follows:
  - Original and six (6) copies returned to the Planning Commission
  - Copy, or copies, to the Road Commission per their requirements
  - Copy, or copies, to the Health Department, per their requirements
  - Copy, or copies, to the Drain Commission, per their requirements
  - Copy, or copies, to the local Fire Department, per their requirements
  - Copy, or copies, to the Leelanau County Department of Building Safety, per their requirements

Delivery may be via electronic or hardcopy format as indicated by each agency. The Planning Commission does accept electronic copies. Upon delivery of the application and site plans; the applicant shall obtain a receipt from the agencies as proof of delivery or a stamped, signed site plan indicating no comment. This receipt may be in electronic format (i.e., email). The receipt with comments, if any, from each agency shall be returned to the Planning Commission. Without these receipts and applicable comments, the site plan will not be processed.

- c. Application fees as found in the Centerville Township Fee Schedule must be paid when the application is submitted and an escrow account must be established to cover the projected review costs.
- d. For preliminary review purposes, an application for major project Site Plan Reviews will be placed on the agenda of a regular meeting of the Planning Commission for discussion and action only after receipt of the comments from State and County agencies, unless the site plan has been in the possession of the review agencies for thirty (30) days without review and/or comment.
- e. The Planning Commission will consider all applications for site plan review submitted to it for approval, revision, or disapproval at a scheduled meeting:
  - 1. The Planning Commission shall prepare a report of each and every site plan submitted in accordance with this section, containing a synopsis of the relevant facts contained in and related to this site plan, together with the Planning Commission's proposed determination.
  - 2. Upon determination of the Planning Commission that a site plan is in compliance with the Zoning Ordinance and other plans or regulations, it shall be so indicated on the site plan.
  - 3. Upon determination of the Planning Commission that a site plan is in compliance, except with minor revisions, said changes shall be so indicated. When these changes have been adequately provided, the petitioner shall resubmit the site plan to the Planning Commission for final site plan approval.
  - 4. If extensive revisions to the site plan are necessary to meet the Zoning Ordinance, and other applicable plans and regulations, the site plan shall be disapproved and the applicant requested to prepare an alternate site plan. In this case, "DISAPPROVED" shall be written on the plan and reasons for disapproval indicated in the Planning Commission's resolution.
- f. Any site plans reviewed as minor projects and approved by the Planning Commission pursuant to E of this Section and all final site plans shall have the same submittal requirements and action alternatives as for preliminary site plans described in the above requirements with the following exceptions.
  - 1. Original and six (6) copies of the final site plan and related information shall be submitted.
  - 2. Up to six (6) copies may be distributed to other reviewing agencies as determined necessary by the Planning Commission.
- g. When a site plan is reviewed and approved or disapproved by the Planning Commission, and all steps completed, two (2) copies of the site plan will be marked by the Planning Commission for the following distribution:

1. One (1) copy returned to the applicant signed by the Chairperson of the Planning Commission including any conditions of approval.
  2. One (1) copy forwarded to the Planning Commission for filing.
- h. Upon Final Site Plan Approval by the Planning Commission, and after a twenty one (21) day waiting period, for appeals, a building permit may be obtained subject to review and approval of the Leelanau County Department of Building Safety.
- i. Failure to initiate construction of an approved site plan within 365 days of approval shall require the applicant to appear before the Planning Commission and demonstrate why the approval should not be revoked. Thirty (30) days prior to the expiration of an approved site plan, an applicant may make application for a one (1) year extension of the site plan at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. The applicant shall present his/her case in person or by representative at the next meeting of the Planning Commission. No more than one (1) extension shall be granted.
- j. After such an appearance, the Planning Commission may revoke a previously "Approved Site Plan" for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:
1. an error in the original approval is discovered either because of inaccurate information supplied by the applicant or an administrative error by a staff member or other agency;
  2. zoning regulations applicable to the project have been changed and the previously approved site plan does not comply with them;
  3. a change in state law, local charter, or other local ordinance affecting the previous approval has occurred;
  4. pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved;
  5. if more than one (1) year has lapsed or two (2) years, if an extension was granted, since approval of the final site plan, pursuant to G(h). above.
- k. Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner. The County Building Inspector shall also be notified to withhold any building permit until a new site plan is approved.
- l. Any subsequent re-submittal shall be processed as a new request with new fees, except for minor amendments pursuant to M of this Section.

G. Standards for Granting Site Plan Approval.

- a. Each site plan shall conform to all applicable provisions of this Zoning Ordinance and the standards listed below:
  1. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
  2. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.
  3. Site plans shall fully conform with the published surface water drainage standards of the County Drain Commission.
  4. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring property owners.
  5. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein and adjacent parcels. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
  6. All buildings or groups of buildings shall be so arranged as to permit emergency access by some practical means to all sides.
  7. If there is a pedestrian circulation system, it shall be insulated as completely as reasonably possible from the vehicular circulation system.
  8. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant material no less than six (6) feet in height.
  9. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.
  10. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are a part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified by the County Road Commission.

11. All streets shall be developed in accordance with the Centerville Township Private Road Ordinance or the Leelanau County Road Commission specifications as required.
12. Site plans shall fully conform to the driveway and traffic safety standards of the Michigan Department of Transportation and/or the County Road Commission.
13. Site plans shall fully conform to the applicable fire safety and emergency vehicle access requirements of the State Construction Code and/or local Fire Chief requirements.
14. Site plans shall fully conform to the County Soil Erosion and Sedimentation Control Ordinance.
15. Site plans shall fully conform to the requirements of the Michigan Department of Public Health and the District Health Department.
16. Site plans shall fully conform to all applicable state and federal statutes.
17. Site plans shall conform to all applicable requirements of local, state and federal statutes and approval shall be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.

#### H. Conditional Approvals.

- a. The Planning Commission may conditionally approve a site plan in conformance with the standards of another local, county or state agency, such as but not limited to a Water and Sewer Department, County Drain Commission, County Road Commission, State Highway Commission or Environmental Quality Department. They may do so when such conditions:
  1. would ensure 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. would protect the natural environment and conserve natural resources and energy,
  3. would insure compatibility with adjacent uses of land, and
  4. would promote the use of land in a socially and economically desirable manner.
- b. The Planning Commission may conditionally approve a site plan for its conformance with fencing, screening, buffering or landscaping requirements of this Ordinance and may collect a performance guarantee consistent with the requirements of J of this Section



(below) to insure conformance. When so doing, the following finding shall be made and documented as part of the review process:

1. that such fencing, screening, buffering or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or other similar impact on adjoining parcels;
2. that absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

I. Conformity to Approved Site Plan Required.

Following final approval of a site plan by the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this Ordinance and subject to the sanctions of this Ordinance.

J. Performance Guarantee Required.

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of Centerville Township and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission may require the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.

- a. Performance guarantee as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit or corporate surety bond in the amount of the estimated cost of improvements to be made as determined by the applicant and verified by the Centerville Township Planning Commission, subject to Township Board approval.
- b. When a performance guarantee is required, said performance guarantee shall be deposited with the Centerville Township Clerk prior to the issuance of a building permit by the County Building Inspector for the development and use of the land. Upon the deposit of the performance guarantee the Centerville Township Clerk shall deposit the performance guarantee, if in the form of a cash deposit or certified check, in an interest-bearing account with the interest accruing to the applicant.
- c. If the applicant has been required, prior to the Centerville Township conditional approval, to post a performance guarantee or bond with another governmental agency other than Centerville Township to insure completion of an improvements associated with the proposed use, the applicant shall not be required to deposit with the Township a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the Centerville Township Clerk and prior to the issuance of

a building permit, the applicant shall enter into an agreement incorporating the provisions herein with the Township regarding the performance guarantee.

- d. An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the building permit.
- e. In the event the performance guarantee is a cash deposit or certified check, the Centerville Township Clerk shall rebate to the applicant fifty (50%) percent of the deposited funds when sixty (60%) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50%) percent of the deposited funds when one hundred (100%) percent of the required improvements are completed as confirmed by the Zoning Administrator. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the performance guarantee herein required may be applied by said applicant to assure compliance with the Zoning Ordinance standards and the specifications of the approved site plan.
- f. Upon the satisfactory completion of the improvements for which the performance guarantee was required, as determined by the Zoning Administrator, the Centerville Township Clerk shall return to the applicant the performance guarantee deposited and any interest earned thereon.
- g. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay the Township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. Should the Township use the performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the Township's administrative costs in completing the improvements, with any balance remaining being refunded to the applicant.

#### K. Operation Guarantee Required.

The Township Board, if so empowered by State or Federal Statute, may require an appropriate guarantee to assure continued operation of any portion of use or a development, which requires site approval.

#### L. Amendments to Approved Site Plans.

- a. Amendments to an approved site plan may be made by the Planning Commission provided that such changes conform to the Zoning Ordinance and the landowner

agrees. Minor changes to an approved site plan may be approved by the Zoning Administrator after construction has begun provided no such change results in any of the following.

1. A significant change in the use or character of the development.
  2. An increase in overall coverage of structures.
  3. A significant increase in the intensity of use.
  4. A reduction in required open space.
  5. A reduction in required off-street parking and loading.
  6. A reduction in required pavement widths or utility pipe sizes.
  7. A significant increase in traffic on neighborhoods or public streets or an increase in the burden on public utilities or services.
- b. Minor amendments include, but are not limited to, the following:
1. Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building(s). Relocation of building entrances or exits, or shortening of building canopies.
  2. Changing to an equal or more restricted use provided there is no reduction in the amount of off-street parking as originally provided.
  3. Changing the angle of parking or aisle width provided there is no reduction in the amount of required off-street parking or in reduction of aisle width below ordinance requirements.
  4. Moving of ingress or egress drives a distance of not more than 100 ft if required by the appropriate state, county or other local road authority with jurisdiction.
  5. Substituting landscape plan species provided a nurseryman, landscape architect, engineer or architect certifies the substituted species is similar in nature and screening effect.
  6. Changing type and design of lighting fixtures provided an engineer or architect certifies there will be no change in the intensity of the light at the property boundaries.
  7. Increase peripheral yards.
  8. Changing the location of an exterior building wall or location no more than ten (10) feet because of a natural impediment or hazard such as bedrock or muck soils,

provided that in so doing no setback requirement of the Ordinance is violated and no significant reduction in safety or in the amount of open space is thereby affected.

- c. If the Zoning Administrator finds that a proposed amendment to an approved site plan does not qualify as a minor change, he/she shall notify the permit holder, the County Building Inspector, and the Planning Commission in writing that site plan approval has been suspended pending approval by the Planning Commission of the proposed amendment. The permit holder's notice shall be delivered by certified mail. If construction has begun, a stop work order shall be issued by the Zoning Administrator for that portion of the project which is not in compliance with the Ordinance. Once site plan approval for a project has been suspended, the permit holder has the option of changing the project plans to conform with the Ordinance requirements, or of restarting the Site Plan Review process. When the issue has been resolved, the Zoning Administrator shall send written notice to the permit holder, the County Building Inspector, and the Planning Commission that the project's site plan has again been approved. This provision is not to be construed to prohibit phased development of a project, provided that each phase is developed in accordance with an approved site plan.

#### M. Appeals of Final Site Plans.

- a. The Centerville Township Planning Commission shall give final approval to all Site Plans
- b. Any person aggrieved by a decision of the Planning Commission in granting or denying approval of a final site plan may appeal the decision to the Zoning Board of Appeals. The appeal must be filed within twenty one (21) days of the decision and shall state the factual basis for the appeal. An appeal shall stay action on the issuance of any permit pursuant to an approved site plan.
- c. The Zoning Board of Appeals shall review the record of action taken on the final site plan and shall determine whether the record supports the action taken. No new evidence shall be presented. The Zoning Board of Appeals shall approve the final site plan if the requirements of this Section and other applicable ordinance requirements are met. The Zoning Board of Appeals shall make written findings in support of its opinion on the appeal.

#### N. As-Built Site Plan.

Upon completion of the installation of required improvements as shown on the approved site plan, the property owner shall submit to the Zoning Administrator three (3) copies of an "as built" site plan, certified by the engineer or surveyor, at least one week prior to the completion of the project. The Zoning Administrator shall circulate the as built plans among the appropriate departments for review to insure conformity with the approved site plan and other County requirements. Once each department has approved the as built plans the Zoning Administrator will make the final inspection and then notify the Leelanau County Department of Building Safety of approval or disapproval.

## O. Land Clearing.

Prior to site plan approval, or prior to the lapse of the seven (7) day waiting period, after approval, no person shall undertake or carry out any such activity or use associated with the project for which site plan approval is first required by this Ordinance. Nor shall such activity commence prior to obtaining necessary soil erosion and sedimentation control permits, wetlands permits, or flood plains permits. Any violation of this provision is subject to the fines and penalties prescribed in this Ordinance for each day of the violation from the day of discovery of the incident until an approved restoration plan, or an approved site plan is granted.

## ARTICLE XIV STANDARDS FOR OPEN SPACE PRESERVATION

### ***Section 14.1 Intent:***

It is the intent of this Article to establish and implement the goals of the Centerville Township Comprehensive Master Plan, which, in part, directs the Township to provide for Articles to “retain the township rural and scenic character (page 7-2)” and “to protect our natural resources (page 7-4).” This Article intends to provide incentives to developers to design projects in such a way as to help the Township achieve its stated objectives of preserving agriculturally productive land, protect and preserve the natural environment and site housing in a manner that preserves the rural views of the neighborhood. This article recognizes the need to balance the growth of the population with the goals and objectives cited above. This balance is integral to meeting the Comprehensive Plan goal “to promote a future for the township that is environmentally, socially, and economically resilient (page 7-1).” This Article incorporates density bonuses for developers whose Site Plans support these agricultural and environmental objectives.

**Section 14.2 Design Objectives For Clustered Developments:**

The following objectives are presented in order to give the Applicant guidelines of what Centerville Township is trying to achieve with Open Space Preservation and to assist in the preparation of the Site Plan. A Clustered Development Applicant should, to the most reasonable and feasible extent possible:

- 1) Protect and preserve all wetlands, floodplains and steep slopes (25% or greater) from clearing, grading, filling, or construction.
- 2) Preserve existing fields, orchards, vineyards, and pastures, and creation of sufficient buffer areas to minimize conflicts between residential and agricultural uses.
- 3) Minimize the impacts on woodlands, especially those located on prime timberland soils or important farmland soils.
- 4) Preserve or create an upland buffer of native vegetation of at least 100 feet (in depth) from adjacent surface waters.
- 5) Preserve the elevation of any rooftop in relation to the elevation of any ridgeline as seen from any public way. Existing trees should be retained or new plantings be made to lessen the visual impact of new construction sited near hilltops or ridges as seen from any public way.
- 6) Conform to surrounding land uses and preserve wildlife corridors.
- 7) Protect the rural roadside character and public safety by avoiding development fronting directly onto existing public roads.
- 8.) Preserve sites of historic, archaeological, or cultural value.
- 9) Provide that open space land shall be as contiguous as possible.

**Section 14.3 General Requirements:**

Section 14.3.1 District Requirements:

Clustered housing developments shall be permitted as a Special Use in all Districts. Unless otherwise listed in this Article, clustered developments must meet the requirements of Article IV, General Provisions. Clustered developments shall also go through the process and meet all the standards and criteria set forth in Article XII, Section 13.1, Requirements for Site Plan Review.

#### Section 14.3.2 Conveyance:

Clustered housing developments may utilize any legal form of land conveyance, including subdivisions, site condominiums, and land divisions. The project shall also meet the requirements of each method of conveyance.

Open Space shall be permanently preserved through an irrevocable conveyance acceptable to the Township Board.

#### Section 14.3.3 Maximum Density:

The maximum number of dwelling units permitted in a clustered housing development shall not be greater than that allowed by right in the Residential I Zoning District, or, in the case of the Commercial Resort and Government Districts, the underlying density.

#### Section 14.3.4 Roads:

Roads within the clustered development will be Private and shall meet the requirements of any and all local, County or State ordinances, rules and/or regulations.

#### Section 14.3.5 Sewage Disposal:

Clustered housing developments require sewage disposal systems. All Cluster Projects shall receive all necessary local, State and Federal permits as a condition of the Special Land Use Permit.

#### Section 14.3.6 Dwelling Types:

Dwelling types shall meet the Township minimum dwelling requirements and may include multiple family dwellings. Dwelling types shall be identified in the application and shown on the site plan.

**Section 14.4 Standards For Clustered Housing Developments:**

Section 14.4.1 Total Number of Units Allowed / Clustering Options:

The total number of dwelling units allowed within a clustered housing development will depend on the total gross acreage of the property, the underlying maximum density, and the amount of Open Space provided. The following Open Space option is offered:

A clustered housing development that retains greater than or equal to 50% of the buildable land in the parent parcel as Open Space (excluding otherwise non-buildable land) shall be allowed a maximum number of dwelling units equal to the total buildable area of the property times the open space acreage of the property times the allowable density in the residential district. For example, a 100 acre parcel with 20 acres of wetlands entering into a clustered development in the Agricultural Zoning District with 50% dedicated Open Space would be allowed a maximum of 80 dwelling units.

$(100 \text{ acres} - 20 \text{ acres} = 80 \text{ acres} \times 50\% = 40 \text{ acres} \times 2 \text{ units per acre} = 80 \text{ units})$

Increasing the retained open space to 60% would increase the allowable density to 96 units as follows:

$(100 \text{ acres} - 20 \text{ acres} = 80 \text{ acres} \times 60\% = 48 \text{ acres} \times 2 \text{ units per acre} = 96 \text{ units})$

Section 14.4.2 Calculating Open Space:

- 1) Calculations of Open Space and gross acreage shall be performed to the nearest hundredth of an acre (0.01).
- 2) The Total Allowable Units amount shall be rounded down to the nearest whole number.
- 3) Roads and road easements or right-of ways may be included in the Open Space computation, however, the footprint of any existing or proposed buildings in the Open Space shall not be included.
- 4) In no case shall the Total Allowable Units be less than the number of units that could be achieved by having a non-clustered development on the same property. It shall be the responsibility of the Applicant to prove how many units could be achieved with the non-clustered project by providing a Site Plan.
- 5) Any future or (unused) allowable residential units shall be accounted for on the Site Plan. Future divisions of the Open Space for residential use will be prohibited.



### Section 14.4.3 Calculating Total Allowable Units in Multiple Districts:

The Total Allowable Units for a clustered development that is located in more than one zoning district shall be determined by calculating the Total Allowable Units in each individual district (gross acreage in district divided by allowable density within district) and adding the individual district results together.

### Section 14.4.4 Off-Premises Open Space:

The Open Space requirement of a clustered development may be partially achieved by using dedicated Open Space from a separate Agricultural, Recreational, or Residential 1- zoned property in Centerville Township and must meet the following conditions:

- 1) At least half of the Open Space required shall be located on the parcel in which the development is located.
- 2) Wetlands and natural water courses in the off-premises parcel shall not be included in the calculation of Open Space.
- 3) Only sixty five percent (65%) of the Open Space in the off-premises Agricultural, Recreational or Residential 1-zoned property parcel shall be credited toward the Open Space Requirement of the principle parcel.

### Section 14.4.5 Minimum Standards for Clustered Developments:

In order to encourage flexibility and creativity consistent with the open space preservation concept, a clustered housing development may depart from the normal dimensional standards for lot size, setbacks, lot width, and lot coverage; however, the following minimum standards shall apply.

- 1) The minimum setback shall be 10' from any lot line, easement line, or right-of-way line, or 40' from any shoreline.
- 2) Clustered lots that have a lot line which borders on a development boundary shall maintain the normal zoning district side or rear setback on that line.
- 3) All lots shall have a minimum of 30 feet of frontage on an approved road.

**Section 14.5 Open Space:**

Section 14.5.1 Ownership of Open Space:

Open Space may be owned in one or more of the following forms:

- 1) Public Ownership if accepted by the Township Board or another public agency.
- 2) Common Ownership by homeowners within the project.
- 3) Private Ownership by one or more individual owners. This form could include farms or large estate parcels

The Applicant, at the time of application, shall submit a statement or documents showing the manner and form of future ownership.

Section 14.5.2 Conveyance of Open Space:

Open Space shall be permanently preserved through an irrevocable conveyance acceptable to the Township Board.

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

Section 14.5.3 Permitted Uses In The Open Space:

Unless otherwise described in this Article, uses that are allowed in the zoning district in which the clustered development is located may be allowed in the Open Space including access roads, road easements or right-of-ways, commercial agricultural production of food and fiber and passive recreational uses shall be allowed. Only Structures associated with passive recreational use subject to planning commission approval shall be allowed. The intent is to limit structures with in the dedicated open space. Proposed uses that, under current district standards, require a Special Use Permit shall meet all applicable standards.

The applicant, at the time of application, shall submit a statement or documents showing the proposed or allowed uses and restrictions within the Open Space.

#### Section 14.5.4 Prohibited Uses in the Open Space:

Uses prohibited within the Open Space include, but are not limited to, the following:

- 1) Motorized Recreational Facilities.
- 2) Golf Courses
- 3) Mining
- 4) Above ground/visible Septage/Sewage Storage facilities
- 5) Concentrated animal feedlot operation

#### **Section 14.6 Procedure For Approving Clustered Housing Developments:**

- 1) All applicants are encouraged to schedule a pre-application hearing with the Township Planning Commission for the purpose described in Section 13.1.D of the Centerville Township Zoning Ordinance.
- 2) Clustered Housing Developments shall follow the procedures established in Article XIII, Requirements for Site Plan Review
- 3). The Applicant shall submit as part of the application a statement or documents showing the method of Open Space conveyance, as well as the proposed or allowed uses and restrictions within the Open Space.

### **ARTICLE XV ADMINISTRATION**

#### **Section 15.1 Zoning Administration**

A Zoning Administrator shall be appointed by and on terms as shall be determined by the Centerville Township Board. The administrator shall perform such duties as the Township Board may prescribe by This Ordinance.

#### **Section 15.2 Eligibility**

To be eligible for appointment the Zoning Administrator shall be generally informed on good building construction, good practice in fire prevention, the proper installation of safety, health and sanitary facilities, and site plan development. They shall be in good health and capable of fulfilling their duties. In case they have a personal interest in the construction of any building subject to the provisions of This Ordinance, the Township Board shall designate some other person to examine the plans, to inspect buildings and to issue the necessary permits, approvals and certificates.

**Section 15.3 Duties**

It shall be the duty of the Zoning Administrator to receive applications for Land Use Permits and issue or deny the same; to inspect buildings, structures for Land Use Permits and issue or deny the same; to inspect buildings, structures or sites; to determine compliance with the Land Use Permits issued in compliance with This Ordinance, and to be in charge of the enforcement of This Ordinance.

**Section 15.4 Land-Use Permits**

Any individual, corporation, association, officer, department, board or bureau of the Federal, State, County or Township; planning to erect a building or structure greater than 150 square feet, or to alter any existing structure, requiring the use of more land area, or to establish a new use for any premises in any Land Use District, shall file an application in writing with the Zoning Administrator for a Land Use Permit. Applications for Land Use Permits for any "Special Land Use Permitted by Special Approval" shall be accompanied by a Site Plan of the proposed use. A Site Plan, if required, must be approved by the Planning Commission prior to commencement of any site activities.

Any structure requiring a Land Use Permit must be completed on the exterior surface with a suitable finishing material, within one (1) year from date of issuance of the Land Use Permit. If hardship can be shown, only on approval of the Zoning Administrator a Land Use Permit may be renewed for one (1) additional year by payment of an additional fee.

A Land Use Permit does not preclude the need for approvals or permits from other Federal, State, County, or Municipal authorities as may be required by law. Some regulatory permits, such as Soil and Erosion, Health Department, and Department of Environmental Quality, if applicable, may be required prior to issuance of the Land Use Permit. Permittee further agrees to indemnify and not to sue Centerville Township and all of its departments, agencies, boards, commissions, officers, employees, or agents from any and all liability arising under or in any manner related to the issuance of the Permit or the privileges granted under a Permit.

**Section 15.5 Distribution of Land Use Permits**

Each Land Use Permit shall be in triplicate and the copies shall be distributed as follows: one to the applicant which s/he is to retain until construction is completed; one to the Township Supervisor; and one to be retained by the Zoning Administrator as a part of the permanent records of the Township.

**Section 15.6 Denial of Permits**

The Zoning Administrator shall promptly inform the applicant of the denial of a Land Use Permit if, in their opinion, such planned building or structure or land use does not comply with the provisions of This Ordinance. The reason for denial will be indicated on the application and a copy provided to the applicant. The denial will be the applicant's basis for appeal if desired. See Article XVII on Appeals.

**Section 15.7 Fees**

Administrative fees shall be set by the Township Board.

**Section 15.8 Amendments**

Any individual, association, department, board or bureau of the State, County or Township affected by this Ordinance may submit a petition in writing to the Zoning Administrator, requesting that consideration be given to amend this Ordinance in the particulars set out in the petition. The person submitting such petition, if it is a request for rezoning, shall furnish the Zoning Administrator with the legal description of the property involved and an original and seven (7) copies of a good and sufficient plot of the property showing all boundary dimensions and the relationship of all adjoining properties (including those access roads and streets). Upon receipt of such petition, the Zoning Administrator will present the petition to the Planning Commission at the next regularly scheduled meeting. Once the petition is deemed complete by the Township Planning Commission, the Commission shall then, within forty-five (45) days, hold a public hearing to consider such petition.

Notice of the public hearing will be made according to the Public Notification Section of this Zoning Ordinance.

Proposed additions or amendments to this Ordinance will be forwarded to the County Planning Commission for review and comment. The Township Planning Commission shall review the County Planning Commission’s comments and then forward the additions or amendments to the Township Board for consideration for approval and adoption into the Ordinance. The Township Board may adopt or decline to adopt the proposed additions or amendments as submitted by the Township Planning Commission; or refer the proposed additions or amendments back to the Township Planning Commission with recommendations for further consideration.

The Township Board shall grant a hearing on a proposed addition or amendment to a Centerville Township property owner who requests a hearing by certified mail, addressed to the Centerville Township Clerk.

**Section 15.9 Public Notification**

All meetings and actions requiring a public hearing 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.

A. **Responsibility:** When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Centerville Township and mailed or delivered as provided in this Section.

B. **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. Street addresses need not be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
3. **When and where the request will be considered:** Indicate the date, time and place of the public hearing(s).
4. **Written comments:** Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
5. **Handicap access:** Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

#### C. Personal and Mailed Notice

1. **General:** When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:
  - a. The owner(s) of the property for which approval is being considered, and the applicant, if different than the owner(s) of the property.
  - b. Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation not involving 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 Centerville Township. In the case of hearings regarding Towers and Antennas, Section 3.16 of this Ordinance, all persons to whom real property is assessed within the radius of the separation distance between towers for the application under consideration will be given personal or mailed notice. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
  - c. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice
  - d. Other governmental units or infrastructure agencies within 300' of the property involved in the application.

2. **Notice by mail:** Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered. If another delivery service is used the Zoning Administrator shall make a record of the service used and the manner in which it was addressed to the recipient.

**D. Timing of Notice:** Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, 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.

## **ARTICLE XVI NUISANCE PER SE: ENFORCEMENT PENALTIES FOR VIOLATION**

### ***Section 16.1 Nuisance per se***

Uses of land, and dwellings, buildings or structures, including tents and mobile homes, used, erected, altered, razed or converted in violation of any provision of this Ordinance or regulations adopted under authority of this Ordinance, are hereby declared to be a Nuisance per se. The Court shall on complaint of the Zoning Administrator made on behalf of the Township or any resident of the Township, order such nuisance abated, and the owner and or agent in charge of such land, dwelling, building, structure, tent or mobile home shall be adjudged guilty of maintaining a Nuisance per se.

### ***Section 16.2 Penalties***

Any person who violates any provision of this Ordinance or who fails to comply with any of the regulatory measures or conditions of the Board of Appeals adopted pursuant hereto, shall be guilty of a municipal civil infraction.

## ARTICLE XVII ZONING BOARD OF APPEALS

### **Section 17.1 Creation**

A Board of Appeals is hereby established.

### **Section 17.2 Membership**

There shall be three (3) members of the Board of appeals as follows:

- A. Three electors residing in the Township, chosen for a term of three (3) years, by the Township Board: One of the members shall be a member of the Township Planning Commission, but shall not serve as chairperson of the Zoning Board of Appeals. One of the members may be a member of the Township Board, but shall not serve as chairperson of the Zoning Board of Appeals. An employee or contractor of the Township Board may not serve as a member of the Zoning Board of Appeals.
- B. The Township Board shall appoint two alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend 1 or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.
- C. Vacancies must be filled as soon as practical or within one month of term expiry.

### **Section 17.3 Per Diem**

Members of the Board of Appeals will be paid as determined by the Township Board.

### **Section 17.4 Procedures**

The Board of Appeals shall elect one (1) of its members to be Chairman and one (1) to be Secretary, and it shall establish rules and regulations to govern its procedure when acting upon appeals. A majority vote of its members shall be required to reverse any decision or determination of the Zoning Administrator or Planning Commission or to approve any variation in the application of this Ordinance.

### **Section 17.5 Public Meetings**

All meetings of the Board of Appeals shall be open to the public.



**Section 17.6 Powers**

The Board of Appeals is empowered to act upon the following matters, and upon no others:

- A. Questions arising in the administration of this Ordinance, including interpretation of the Centerville Township Zoning Map.
- B. All matters which this Ordinance properly refers to the Board of Appeals for determination.
- C. Appeals from actions of the Zoning Administrator or Planning Commission.
- D. Cases in which strict application of the provisions of this Ordinance would result in practical difficulty, provided, that the spirit of this Ordinance is observed, even though certain restrictions may be waived and a non-use variance granted, to provide substantial justice.

**Section 17.7 Appeals, How Made**

An appeal to the Zoning Board of Appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of the state or local unit of government. Such appeal shall be made in such time as shall be prescribed by the Board of Appeals by general rule by the filing with the body or officer from whom the appeal is taken and with the Zoning Board of Appeals of a notice of appeal specifying the grounds for appeal. The body or officer from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all of the papers constituting the record upon which the action appealed is based. The Township Board on an annual basis will set the fee.

**Section 17.8 Stay of Proceedings**

An appeals stays all proceedings in the action appealed.

**Section 17.9 Hearings**

The Board of Appeals shall fix a reasonable time for hearing of an appeal, and shall give due notice thereof to all parties concerned and in accordance with the Public Notification Section of the Township Zoning Ordinance. A decision on the issue will be made in a reasonable time, said decision to provide that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.

**Section 17.10 Standards for Approval of Variances**

The Zoning Board of Appeals has the power to authorize specific variances from site development requirements provided that the findings listed below are met and the record of proceedings of the Zoning Board of Appeals contains evidence supporting each conclusion.

- (1) The variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship;
- (2) The variance will relate only to property under control of the applicant; and
- (3) The hardship or practical difficulty is not economic.(4) A genuine practical difficulty exists because of unique circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district, and shall not be recurrent in nature;
- (4) Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;
- (5) The variance will be in harmony with the general purpose and intent of this ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district; and
- (6) The practical difficulty is not a result of the applicant’s own actions.

**Section 17.11 Further Appeal**

Any decision of the Board of Appeals may be appealed to a Court of competent jurisdiction.

## ARTICLE XVIII SEPARABILITY

### **Section 18.1 Validity**

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 directly involved in the controversy in which said judgment shall have been rendered.

## ARTICLE XIX EFFECTIVE DATE

### **Section 19.1 Effective Date**

This Ordinance was adopted on April 12, 2023 by the Centerville Township Board of Trustees and will be effective seven (7) days after publication of a notice of adoption, which must be published within fifteen (15) days of its adoption. The Zoning Ordinance effective date is April 27, 2023 and supersedes all previous Centerville Township Ordinances.

**Date of Public Meeting:** January 11, 2023

**Date Adopted By Township Board:** April 12, 2023

**Date Published:** April 20, 2023

**Effective Date:** April 27, 2023

# ZONING MAP

