

Zoning Ordinance

Weesaw Township, Michigan

**Township Ordinance 6
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Effective December 5, 2007
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**CHAPTER 1
DEFINITIONS**

SECTION 1.1 CONSTRUCTION OF LANGUAGE

The following rules apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In the case of any difference in meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.
- E. A “building” or “structure” includes any part thereof.
- F. The word “person” includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- G. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.
 - 1. “And” indicates that all connected items, conditions, provisions, or events shall apply.
 - 2. “Or,” indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
 - 3. “Either...or” indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- H. Terms not herein defined shall have the meaning customarily assigned to them.
- I. The masculine form of a word shall also mean the feminine and vice versa.

SECTION 1.2 DEFINITIONS - A

ACCESSORY BUILDING

A subordinate building on the same premises with a main building or portion of a main building and occupied or devoted to an accessory use; for example, a private garage. When attached to a main building, the accessory building shall be considered part of the main building.

ACCESSORY USE OR ACCESSORY

A use which is clearly incidental to the principal use of the lot and customarily found in connection with the principal use. An accessory use shall be located on the same lot as the principal use. When “accessory” is used in this text, it shall have the same meaning as accessory use.

ADULT BOOKSTORE

A building used for the sale of motion picture films, video cassettes, magazines, posters, and other printed material, or tapes, or sex objects for other than contraceptive purposes, distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined in this Ordinance, for sale to patrons therein.

ADULT FOSTER CARE FACILITY

A facility defined as an “adult foster care facility” by the adult foster care facility licensing act, Act No. 218 of the Public Acts of Michigan of 1979 (MCL 400.701 et seq.), as amended, having as its principal function the receiving of adults for foster care, and licensed by the state under the act. An “adult foster care facility” includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an on-going basis, but who do not require continuous nursing care.

ADULT FOSTER CARE FAMILY HOME

A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.

ADULT LIVE ENTERTAINMENT THEATER

A building for presenting live entertainment involving the use of strip dancers, naked individuals, individuals who wear see through clothing which permits the view of “specified anatomical areas,” individuals who are partially clothed and partially unclothed so as to permit the view of “specified anatomical areas,” or individuals conducting “specified sexual activities.”

ADULT MOTION PICTURE THEATER

A building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this Ordinance, for observation by patrons therein.

AGRIBUSINESS

An animal slaughter house or slaughter operation, meat processing plant, farm implement sales, farm implement reconditioning, fertilizer sales, seed cleaning and distribution, custom crop application, and wood chip processing and distribution operations.

ALLEY

Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

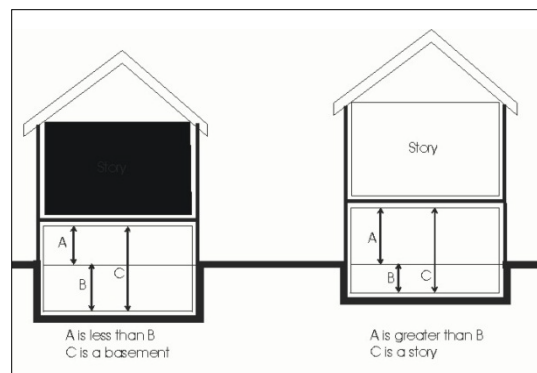
ALTERATIONS

Any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders.

SECTION 1.3 DEFINITIONS - B

BASEMENT

That portion of a building which has part, but not less than one-half (1/2) of its height below grade. A basement shall not be counted as a story.



BED & BREAKFAST ESTABLISHMENT

A use within a detached single family dwelling in which transient guests are provided a sleeping room, breakfast, and access to bathing and lavatory facilities in return for payment.

BERM

A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual or audible screening purposes.

BLOCK

The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river or stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate boundary lines of the municipality.

BOARD OF APPEALS OR ZONING BOARD OF APPEALS

The Zoning Board of Appeals of Weesaw Township.

BUFFER STRIP

A strip of land required between certain zoning districts reserved for plant material, berms, walls, and fencing to serve as a visual barrier or to block noise, light, and other impacts.

BUILDING

An independent structure, temporary or permanent, that has a roof supported by columns, walls, or any other support and used for the enclosure of persons, animals, possessions, or the conduct of business activities or other uses.

BUILDING CODE

The code or codes governing the erection and maintenance of buildings as currently adopted by Weesaw Township.

BUILDING LINE

A line parallel to the street line formed by the face of the building or touching that part of a building closest to the street. For the purposes of this Ordinance, a minimum building line is the same as the front setback. (See also Chapter 12, District Regulations, and Section 2.6 Projections into Yards)

BUILDING OFFICIAL, OR BUILDING INSPECTOR

The person designated by the Township Board to administer the provisions of the adopted Building Codes for Weesaw Township.

BUILDING SITE

This term shall be used in connection with site condominiums and shall mean either:

- A. The area within the site condominium unit by itself (i.e., exclusive of any appurtenant limited common element), including the area under the building envelope and the area around and contiguous to the building envelope; or
- B. The area within the condominium unit (as described above), taken together with any contiguous and appurtenant limited common element.

SECTION 1.4 DEFINITIONS - C

CERTIFICATE OF OCCUPANCY

A document signed by an authorized Township official as a condition precedent to the commencement of a use which acknowledges that such use, structure or building complies with the provisions of the Zoning Ordinance.

CHILD CARE CENTER OR DAY CARE CENTER

A facility, other than a private residence, licensed by the Michigan Department of Social Services, in which one (1) or more preschool or school age children are given care and supervision for periods of less than twenty-four (24) hours per day, and where a parent or legal guardian is not immediately available to the child. Child care center includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day.

Child care center does not include a Sunday school, a vacation Bible school, or a religious class that is conducted by a religious organization where children are in attendance for not greater than four (4) hours per day for an indefinite period, or not greater than eight (8) hours per day for a period not to exceed four (4) weeks, during a twelve (12) month period, or a facility operated by a religious organization where children are cared for not greater than four (4) hours, while persons responsible for the children are attending religious classes or services.

CLUB

An organization of persons for special purposes such as sports, arts, sciences, literature, politics, or the like, but not operated for profit.

COMMERCIAL STORAGE WAREHOUSE

A building or buildings used primarily as a commercial business for the storage of goods and materials, also referred to as mini-warehouse.

CONVALESCENT OR NURSING HOME

A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and medical care.

SECTION 1.5 DEFINITIONS - D

DAY CARE CENTER

See “CHILD CARE CENTER.”

DRIVE-THROUGH BUSINESS

A business establishment so developed that its retail or service character provides a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle either exclusively or in addition to service within a building or structure, or to provide self-service for patrons and food carry-out.

DWELLING UNIT

A room, or rooms connected together, constituting a separate, independent housekeeping establishment for one family occupancy, physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom, and sleeping facilities. In no case shall a motor home, trailer, automobile chassis, tent, or portable building be considered a dwelling. In the case of mixed occupancy, the part of a building occupied as a dwelling shall be deemed the dwelling unit and shall comply with all applicable provisions of this Ordinance for dwellings.

DWELLING, MULTIPLE-FAMILY

A building containing three or more individual dwelling units or apartments.

DWELLING, SINGLE FAMILY DETACHED

A building containing only one dwelling unit.

DWELLING, TWO-FAMILY

A building on a single lot containing two attached dwelling units.

SECTION 1.6 DEFINITIONS - E

EARTH SOLID

A natural resource such as topsoil, stone, rock, sand, gravel, lime, mineral resources or any other product that can be extracted from beneath the surface of the ground. [AMENDED 9/8/2014]

EARTH SOLID REMOVAL OR PROCESSING

Extraction at a property or portion thereof designed, constructed, or used for commercial open pit or subterranean extraction or earth solids; this term also includes quarrying, groundwater diversion, soil removal, milling crushing storing, washing of any such material and other preparation of earth solid and other similar materials. [AMENDED 9/8/2014]

ERECTED

Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises that are required for construction, excavation, fill, drainage, etc.

ESSENTIAL PUBLIC SERVICES

The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel, or water transmission, distribution, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, but not including buildings and storage yards, which are necessary for the furnishing of adequate service by such

utilities or municipal departments for the general health, safety or welfare. The term “essential services” shall not include wireless communication towers, unless located on public property and used as part of a municipal emergency communications network.

EXCAVATION

Any breaking of ground, except common household gardening and ground care.

EXTRACTION

The removal by mining or any other process of earth solids. [AMENDED 9/8/2014]

SECTION 1.7 DEFINITIONS - F

FAMILY

A person living alone in a single dwelling unit or two or more persons whose domestic relationship is of a continuing, non-transient character and who reside together as a single housekeeping unit in a single dwelling unit. “Family” does not include a collective number of individuals occupying a motel, fraternity, sorority, society, club, boarding, or lodging house, or any other collective number of individuals whose domestic relationship is of a transient or seasonal nature.

FAMILY DAY CARE HOME

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

FARM

All the contiguous neighboring or associated land operated as a single unit on which farming is carried on directly by the owner-operator, manager, or tenant farmer by his own labor or with the assistance of members of his household or hired employees. Farms may be considered as including establishments operated as greenhouses, nurseries, orchards, livestock and poultry farms, and apiaries; but establishments for the purpose of keeping fur-bearing animals or game, stock yards, or sand and gravel pits shall not be considered farms.

FLOOD

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland waters.
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD HAZARD AREA, SPECIAL

Land within the Township subject to a one percent or greater chance of flooding in any given year. Also known as “area of 100 year flood,” and shown on the Flood Insurance Rate Map (FIRM) as “Zone A.”

FLOOD INSURANCE RATE MAP

An official map of the Township, on which the Federal Insurance Administration has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD PLAIN

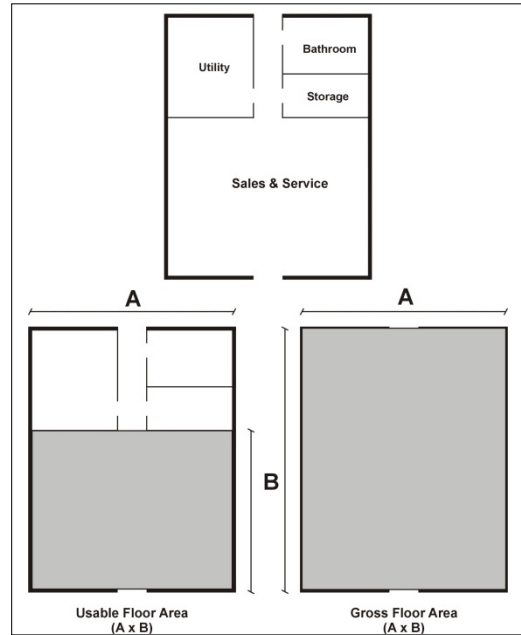
Land designated as Special Flood Hazard Area.

FLOOR AREA, GROSS

The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls.

FLOOR AREA, USABLE (For the purposes of computing parking)

That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities or sanitary facilities shall be excluded from the computation of "usable floor area." Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.



FRONTAGE

The continuous linear distance of that portion of a parcel abutting upon a public street right-of-way or private street easement.

SECTION 1.8 DEFINITIONS - G

GRADE

The gradient, the rate of incline or decline expressed as a percent. For example, a rise of twenty-five (25) feet in a horizontal distance of one hundred (100) feet would be expressed as a grade of twenty-five percent.

GRADE, AVERAGE

The average finished ground elevation at the center of all walls of a building established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured.

GREENBELT

A strip of land of definite width and location reserved for the planting of shrubs, trees, or grasses to serve as an obscuring screen or buffer strip in carrying out the requirements of this Ordinance. (See also BERM and BUFFER STRIP).

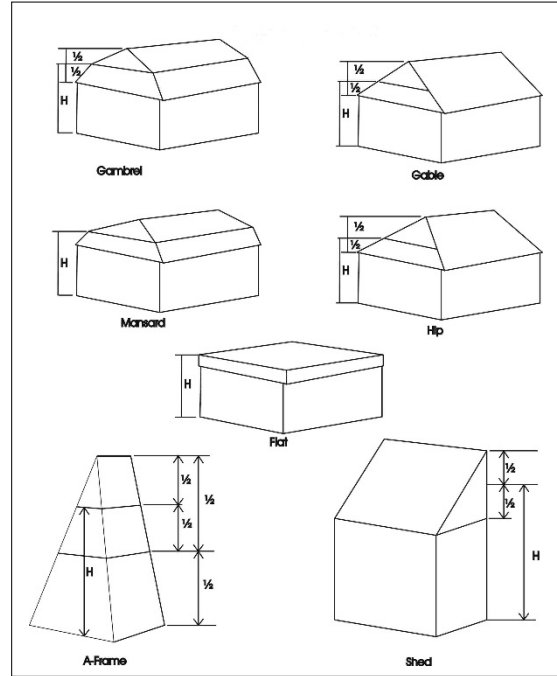
GROUP DAY CARE HOME

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

SECTION 1.9 DEFINITIONS - H

HEIGHT

The vertical distance measured from the average grade to the highest point of a structure. In the case of a building, height shall be measured from the average grade to the highest point of the roof surface for a flat roof; to the deck line of mansard roofs; and to the midpoint between the eaves and ridge for gable, hip, and gambrel roofs.



HOME OCCUPATION

An occupation or profession carried on within a portion of a dwelling unit that is clearly a customary, incidental, and secondary use of the residential dwelling unit including instruction in music, crafts or fine art, within a dwelling, by a member of the family residing in the dwelling.

HOTEL/MOTEL

A facility offering lodging accommodations to the general public for a daily rate and that may or may not provide additional services, such as restaurants, meeting rooms, and recreational facilities.

HOUSING FOR THE ELDERLY

A residential facility that provides room, board and supervised care to unrelated, non-transient individuals 60 years of age or older or couples where either the husband or wife is 60 years of age or older. School facility shall be licensed as a “home for the aged” by the State Department of Public Health under Article 17 of the Public Health code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.20101 et seq., MSA 14.15 (20101)), as amended. This does not include a development that contains convalescent or nursing home as licensed under Act No. 139 of the Public Acts of 1956, as amended, being sections 331.651 to 331.660 of the Compiled Laws of 1948; or a mental hospital for mental patients licensed under sections 51 and 52 of Act No. 151 of the Public Acts of 1923, as amended, being sections 330.61 and 330.62 of the Compiled Laws of 1948.

SECTION 1.10 DEFINITIONS - I

INOPERABLE VEHICLE

Any motor vehicle that is currently not capable of being started and safely and properly operated on the highway.

SECTION 1.11 DEFINITIONS - J

JUNK

Any worn out or discarded materials including, but not necessarily limited to, scrap metal, inoperable motor vehicles and parts, construction material, household wastes, including garbage and discarded appliances, and yard debris.

JUNK YARD

An open or outdoors area where waste, junk or used or second-hand materials are bought and sold, exchanged, stored, maintained, kept, bailed, packaged, disassembled or handled. These materials include, but are not limited to: scrap iron and other metals, paper, rags, rubber tires, and bottles. A “junk yard” includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping of abandonment of junk, but does not include uses established entirely within enclosed buildings.

SECTION 1.12 DEFINITIONS - K

KENNEL, COMMERCIAL

Any lot or premise on which four (4) or more dogs, cats, or other household pets, six (6) months of age or older, either permanently or temporarily boarded for commercial purposes. A kennel shall also include any lot or premises where household pets are bred or sold for commercial purposes.

SECTION 1.13 DEFINITIONS - L

LOADING SPACE

An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a vehicle while loading and unloading merchandise or materials.

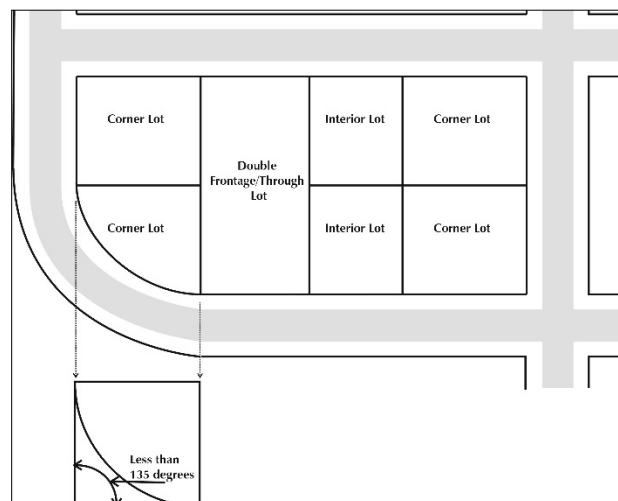
LOT

A parcel, vacant land, occupied land, or land intended to be occupied by a building and accessory buildings, or utilized for principal and accessory use(s) together with yards and open spaces required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records. A lot may consist of any of the following, or a combination of any of the following, excluding any portion of property subject to a public easement or right-of-way for highway purposes and provided that in no case shall a division or combination of properties create a residual lot which does not meet the requirements of this ordinance:

- A. A platted lot, or a portion of a platted lot;
- B. A parcel of land described by metes and bounds, or a portion of a parcel of land described by metes and bounds; or
- C. A building site as defined in this ordinance in connection with a site condominium project.

LOT, CORNER

A lot having at least two (2) contiguous sides abutting a street, provided that the interior angle at the intersection of the sides is less than one hundred thirty-five (135) degrees. A lot abutting upon a



curved street or streets shall be considered a corner lot if the tangents to the curve, at its points of beginning within the lot or at the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than one hundred thirty-five (135) degrees.

LOT, FLAG

A lot with access provided to the bulk of the lot by means of a narrow corridor fronting on a public street.

LOT, INTERIOR

A lot other than a corner lot, flag lot, or through lot.

LOT, THROUGH

Any interior lot having frontage on two parallel streets. In the case of a row of through lots, all yards of said lots adjacent to streets shall be considered frontage, and through yard setbacks shall be provided as required.

LOT, WATERFRONT

A lot having a property line abutting a shoreline.

LOT AREA

The total horizontal area within the lot lines.

LOT COVERAGE

The part of the lot occupied by any building, including accessory buildings.

LOT DEPTH

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

LOT LINES

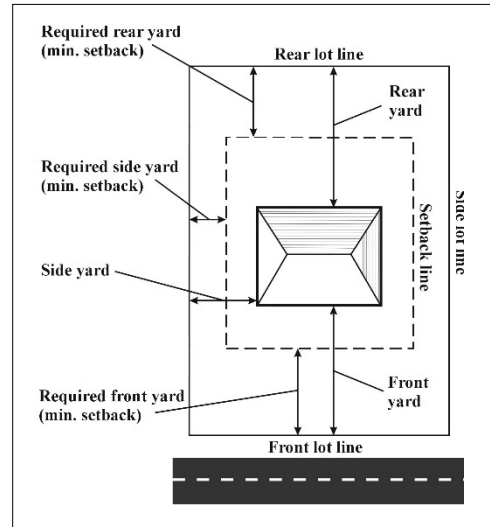
The lines bounding a lot as defined herein:

A. FRONT LOT LINE

In the case of an interior lot, it is the line separating the lot from the street. In the case of a through lot, it is that line separating said lot from either street. In the case of a waterfront lot, the front lot line shall be considered the lot line abutting the water.

B. REAR LOT LINE

That lot line opposite and most distant from the front lot line. In the case of a lot which is pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line and wholly within the lot.



C. SIDE LOT LINE

Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot is an interior side lot line.

LOT OF RECORD

A parcel of land, the dimensions of which are shown on a document or map on file with the Berrien County Register of Deeds, which actually lawfully exists as shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

LOT WIDTH

The horizontal straight line distance between the side lot lines, measured between the two points where the required front setback line intersects the side lot lines.

SECTION 1.14 DEFINITIONS - M

MAIN BUILDING

A building in which is conducted the principal use of the lot upon which it is situated.

MANUFACTURED HOME

A transportable, factory-built home, designed to be used as a year-round residential dwelling.

MANUFACTURED HOME PARK

A parcel or tract of land under the control of a person upon which three (3) or more manufactured homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home and which is not intended for use as a temporary trailer park.

MASSAGE PARLOR

Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet one or more of the following criteria:

- A. Proof of graduation from a school of massage licensed by the State of Michigan;
- B. Official transcripts verifying completion of at least three hundred (300) hours of massage training from an American community college or university; plus three references from massage therapists who are professional members of a massage association referred to in this section;
- C. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or,
- D. A current occupational license from another state.

MASTER PLAN

The Master Plan currently adopted by Weesaw Township, including graphic and written proposals, indicating the general location for streets, parks, schools, public facilities, and all physical development of the Township, and any unit or part of such plan and any amendment to such plan.

SECTION 1.15 DEFINITIONS - N

NONCONFORMING BUILDING OR STRUCTURE

A building or structure, the size, dimensions, or location of which was lawful prior to the adoption or amendment of the Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present requirements of the zoning district in which it is located.

NONCONFORMING LOT

A lot, the area, dimensions, or location of which was lawful prior to the adoption or amendment of the Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present lot requirements of the zoning district in which it is located.

NONCONFORMING USE

A use or activity that was lawful prior to the adoption or amendment of the Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present use regulations of the zoning district in which it is located.

NURSING HOME

A nursing care facility licensed as a “nursing home” by the State Department of Public Health under article 17 of the public health code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.2010 et seq., MSA 14.15(20101) et seq.), as amended. A “nursing home” as defined by this section shall include extended care facility and convalescent home.

SECTION 1.16 DEFINITIONS - O

OFF-STREET PARKING LOT

A facility providing parking spaces, along with adequate drives, maneuvering areas, and aisles, for the parking of more than three (3) vehicles.

OPEN AIR BUSINESS

Retail sales establishments operated substantially in the open air, including:

- A. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sales, repair or rental services.
- B. Outdoor display area and sale of garages, motor homes, recreation vehicles, manufactured homes, snowmobiles, swimming pools and similar activities, but not including farm implements or commercial construction equipment.
- C. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment, but not including lumber yards.

SECTION 1.17 DEFINITIONS - P

PARKING SPACE

An area of definite length and width, said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

PERSONAL SERVICE ESTABLISHMENT

A commercial business conducting services that are performed primarily on the premises.

PLANNED UNIT DEVELOPMENT (PUD)

A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

PLANNING COMMISSION

The Weesaw Township Planning Commission.

POSTAL HOLIDAYS

Those holidays in which the services of the United States Postal Service are cancelled, and they are as follows: New Years Day, Martin Luther King Jr. Day, President's Day, Memorial Day, Independence Day (July 4th), Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and Christmas Day.

[AMENDED 9/8/2014]

PRINCIPAL USE

The main use to which the premises are devoted.

PUBLIC UTILITY

Any person, firm, corporation, municipal department, board, or commission duly authorized to furnish, under Federal, State or municipal regulations, to the public, electricity, gas, steam, communications (excluding wireless communications), telegraph, transportation, or water services; provided that this definition shall not include any person, firm, or corporation engaged in radio or television broadcasting.

SECTION 1.18 DEFINITIONS - R

RECLAMATION

The process following termination of activity regulated by a special use permit, which is necessary to cause the property to be returned to as existed prior to the regulated activity or to a condition as otherwise allowed by the Planning Commission. [AMENDED 9/8/2014]

RECREATIONAL VEHICLE OR EQUIPMENT

Vehicles or equipment used primarily for recreational purposes. For the purpose of this Ordinance, recreational vehicle shall mean:

- A. A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle such as a motor home or camper;
- B. Boats and trailers designed to transport boats;
- C. Snowmobiles and trailers designed to transport snowmobiles;
- D. Off-road vehicles and trailers designed to transport off-road vehicles;
- E. Pop-up tent and camper trailers;
- F. Other similar vehicles deemed by the Zoning Administrator and enforcement officer to be a recreational vehicle.

This term shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for on-street use.

RESIDENTIAL DISTRICT

This term shall include the A-1, R-2, and R-3 Districts, and any residential uses within an approved Planned Unit Development District.

SECTION 1.19 DEFINITIONS - S

SALVAGE YARD

An open area where waste, used, or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled, including house wrecking and structural steel materials and equipment and automobile wrecking.

SATELLITE DISH ANTENNA

An apparatus capable of transmitting to or receiving communications from an orbiting satellite.

SECONDARY STREET

The secondary street shall be the street on a corner lot which is not fronting on the street which is considered as the street for the determination of the front yard.

SETBACK

The distance required to obtain minimum front, side or rear yard open space provisions of this Ordinance.

SHOOTING CLUB

A club providing facilities for shooting guns or arrows for sport.

SIGN

A device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of any business, establishment, person, entity, product, service or activity, or to communicate information of any kind to the public. (See also Sec. 12.3 B.)

SIGNIFICANT NATURAL FEATURE

A natural area as designated by the Planning Commission, Township Board, or the Michigan Department of Environmental Quality which exhibits unique topographic, ecological, hydrological, or historical characteristics such as a wetland, flood plain, river, lake, or other unique natural features. SPECIFIED ANATOMICAL AREAS

- A. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

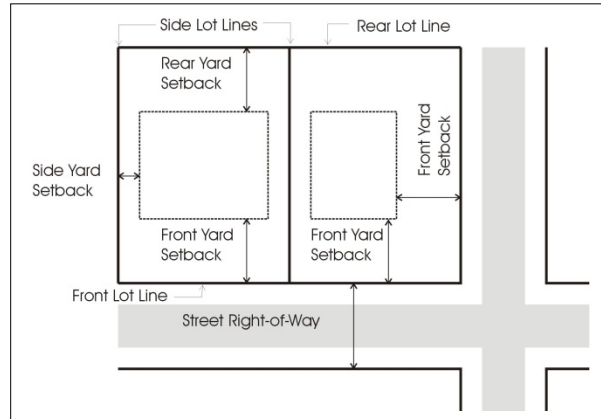
- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse or sodomy;
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STATE LICENSED RESIDENTIAL FACILITY (6 OR FEWER PERSONS)

A structure constructed for residential purposes that is licensed by the State pursuant to the adult foster care facility licensing act (Act No. 218 of the Public Acts of Michigan of 1979; MCL 400.701 et seq., as amended) or the child care organizations act (Act No. 116 of the Public Acts of Michigan of 1973; MCL 722.111 et seq., as amended), which provides resident services or care for six (6) or fewer persons under twenty-four (24) hour supervision for persons in need of that supervision or care. A “state licensed residential facility (six or less persons)” as defined by this section shall not include an establishment commonly described as an alcohol or substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house that does not provide or offer to provide foster care.

STORY

That part of a building included between the surface of any floor above the average grade or ground at the foundation and the surface of the next floor, or if there is no floor above, then the ceiling next above.



STORY, HALF

An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven (7) feet six (6) inches. For the purpose of this Ordinance, the usable floor area is only that area having at least five (5) feet clear height between floor and ceiling.

STREET, PRIVATE

A private street shall mean any roadway or drive which is not a dedicated public road right-of-way and which provides or is intended to provide the primary means of ingress/egress to two (2) or more lots or dwelling units, whether created by private road right-of-way, agreement, license, lease, joint ownership, easement or prescription. Any and all extensions to a private road shall be considered part of the primary private street which abuts the private road. The term "private street" shall also include a path, drive, trail or road which is privately built and maintained and which is located on a public road right-of-way or easement.

STREET, PUBLIC

A public dedicated right-of-way other than an alley, which affords the principal means of access to abutting property.

STRUCTURE

Anything constructed, erected or placed item or material or combination of materials or items in, on or upon the ground having a fixed location, including, but not limited to, buildings, sheds, towers, signs, swimming pools, animal enclosures, garages, accessory buildings, decks, patios, docks, platforms, satellite dishes, gazebos, tennis courts and storage bins, but excluding lawful fences, sidewalks and paving on streets, driveways or parking areas. The definition of structure also excludes retention walls, seawalls, decks or patios, no portion of which is located more than 12 inches above the natural grade nor closer than 5 feet to any lot line.

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either, before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or the Michigan Register of Historic Places.

SECTION 1.20 DEFINITIONS - T

TRUCK TERMINAL

A building or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semi trailers, including tractor and/or trailer units and other trucks, are parked or stored.

SECTION 1.21 DEFINITIONS - V

VALUABLE NATURAL RESOURCE

Any earth solid extracted from which the removing person can reasonably expect to receive revenue and to operate the related business at a profit. [AMENDED 9/8/2014]

VEHICLE SERVICE STATION

Building and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and other similar motor vehicle accessories and including the customary space and facilities for the installation of such commodities, including storage, minor repair, and servicing but not including vehicle repair as defined herein.

VEHICLE REPAIR

Any major activity involving the general repair, rebuilding, or reconditioning of motor vehicles, engines, or trailers; collision services such as body, frame or fender straightening and repair; overall painting and rust proofing; and refinishing or steam cleaning.

VEHICLE WASH

A building or portion thereof, the primary purpose of which is that of washing motor vehicles.

SECTION 1.22 DEFINITIONS - W

WASTE DUMPSTER

A container used for the temporary storage of rubbish and/or materials to be recycled pending collection, having capacity of at least one (1) cubic yard.

WIND ENERGY CONVERSION SYSTEM

- A. Wind Energy Conversion System (WECS): Shall mean a combination of:
 - 1. A surface area (typically a blade, rotor, or similar device), either variable or fixed, designed to utilize the wind for electrical power; and
 - 2. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and
 - 3. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy, generally housed in a nacelle; and
 - 4. The tower, pylon, building mount or other structure upon which any, all, or some combination of the above are mounted.
 - 5. Other components not listed above but associated with the normal construction, operation, and maintenance of a WECS.
- B. Commercial WECS: Any WECS meant to provide power which is utilized off the site on which the WECS is located, including WECS designed to provide power to the utility grid.
- C. On-site Service WECS : A WECS placed upon a lot or parcel with the primary intent to service the energy needs of only the structures and uses on the same lot or parcel.
- D. WECS Testing Facility: A structure and equipment used to determine the potential for the placement of a WECS.

[AMENDED 1/20/2010]

WIRELESS COMMUNICATIONS TOWER, COMMERCIAL

A structure designed and constructed to support one or more antennas used for licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

SECTION 1.23 DEFINITIONS - Y

YARDS

The open spaces on a lot surrounding the main building, which are unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein.

A. FRONT YARD

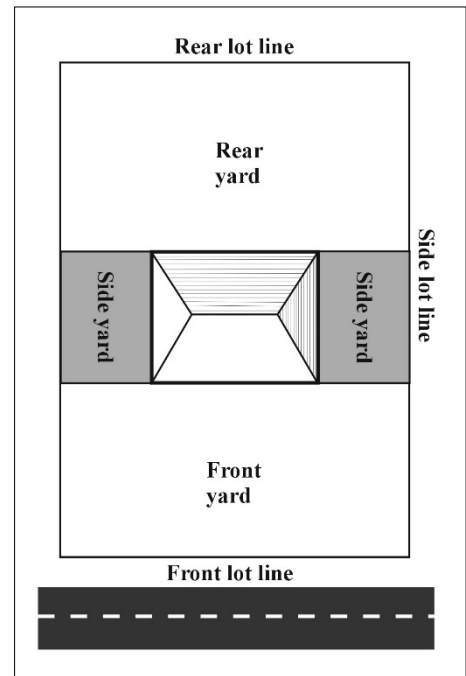
An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the building line of the main building.

B. REAR YARD

An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the building line of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.

C. SIDE YARD

An open space between a main 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 on the side lot line to the building line of the main building.



YARD, REQUIRED

The required yard shall be that set forth as the minimum yard setback requirement for each district.

SECTION 1.24 DEFINITIONS - Z

ZONING ACT

The Michigan Zoning Enabling Act.

ZONING ADMINISTRATOR

The person designated by the Township Board to administer the provisions of this Zoning Ordinance.

- b. A lot that meets the qualifying conditions shall be allowed a minimum side yard setback of eight (8) feet and a minimum front yard of twenty (20) feet. Any building or structure constructed or expanded on the lot shall comply with all other development requirements of the zoning district in which the property is located.

[AMENDED 1/20/2010]

- 3. If two or more lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment thereto, with continuous frontage and under single ownership do not meet the requirements established for lot width or lot area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of such parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements established by this Ordinance.

C. Non-conforming Uses

- 1. 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 the adoption or amendment of this Ordinance.
- 2. No part of any non-conforming use shall be moved unless such movement eliminates the non-conformity.
- 3. If a non-conforming use is abandoned for any reason for a period of more than one (1) year, any subsequent use shall conform to the requirements of this Ordinance. A non-conforming use shall be determined to be abandoned if one or more of the following conditions exist, and which shall be deemed to constitute intent on the part of the property owner to abandon the non-conforming use:
 - a. Utilities, such as water, gas and electricity to the property, have been disconnected;
 - b. Signs or other indications of the existence of the non-conforming use have been removed;
 - c. Equipment or fixtures necessary for the operation of the non-conforming use have been removed;
 - d. Other actions, which in the opinion of the Zoning Administrator constitute an intention of the part of the property owner or lessee to abandon the non-conforming use.

D. Non-conforming Buildings and Structures

- 1. Where a lawful building or structure exists at the effective date of this Ordinance, or an amendment thereto, that does not comply with the requirements of this Ordinance because of restrictions such as lot area, coverage, width, height, or yards, such building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - a. No such building or structure may be enlarged or altered in a way that increases its nonconformity, except in cases in which the setback of a building or structure is non-conforming by fifty (50) percent or less of the distance required by this Ordinance. Only in these cases may the non-conforming setback be extended along the same plane as the existing non-conforming setback, provided that in so doing, the setback itself is not further reduced.

- b. Should a non-conforming building or structure be destroyed to an extent of more than sixty (60) percent of its replacement value, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this Ordinance.
 - c. Should a non-conforming building or structure be moved for any reason and for any distance, it shall be moved to a location which complies with the requirements of this Ordinance.
 - 2. None of the provisions of this Section are meant to preclude normal repairs and maintenance on any non-conforming building or structure that would prevent strengthening or correcting of any unsafe condition of the building or structure.
- E. The Township may acquire, through purchase or condemnation, private non-conforming, buildings, structures, or land. The Township Board may make this purchase of private property in the manner provided for by law

SECTION 2.2 ACCESSORY BUILDINGS, STRUCTURES, AND USES

A. Accessory Buildings - General

- 1. Where an accessory building is attached to a main building, it shall conform to all regulations of this Ordinance applicable to the main building.
- 2. Accessory buildings may be erected in the front yard if the lot has a minimum of two hundred fifty (250) feet of depth and further provided that such accessory building setback is equal to at least one-half (½) the distance between the front lot line and the main building. Where accessory buildings are placed in the front yard such buildings shall maintain a minimum side yard setback of fifty (50) feet.
- 3. Accessory buildings shall not be permitted on a lot or parcel which does not have a main use or building.

B. Accessory Uses - General

- 1. Accessory uses are permitted only in connection with, incidental to, and on the same lot with a main use which is permitted in the particular zoning district. No accessory use may be placed on a lot without a main use.
- 2. An accessory use must be in the same zoning district as the main use on a lot.
- 3. Accessory uses may be permitted in the front yard.

C. Residential Accessory Buildings and Structures

Accessory buildings shall be permitted provided that the following restrictions are met:

- 1. No detached accessory building shall be located closer than fifteen (15) feet to any rear lot line or ten (10) feet to any side lot line.
- 2. No detached accessory building shall be located closer than ten (10) feet to any main building.
- 3. No accessory building shall exceed (20) feet in height.
- 4. These restrictions shall not apply to farm buildings used in conjunction with a bona fide farm operation.

D. Other District Accessory Buildings and Structures

Accessory buildings shall be permitted within the C-1 and I Districts provided the following restrictions are met:

1. Detached accessory buildings shall meet all setback requirements for the zone district in which they are located.
2. No detached accessory building shall be located nearer than ten (10) feet to any other building on the property.
3. No accessory building shall exceed the permitted height for main buildings in the district in which it is located.

E. Accessory Buildings and Structures on Waterfront Lots

One (1) accessory building may be constructed within the required setback from the ordinary high water mark on any waterfront lot, provided it is no larger than twenty four (24) square feet and eight (8) feet in height. Any other accessory building or structure shall otherwise comply with the applicable requirements of Section 2.2.

SECTION 2.3 FENCES

- A. Fences in the A-1 and R-2 Districts shall not exceed six (6) feet in height, measured from the surface to the uppermost portion of the fence. In the A-1 District, fences used to enclose vacant land or land used for agricultural purposes, may be erected within any yard up to a height of seven (7) feet. Such fences shall be of an open type so as to not obstruct vision.
- B. Fences erected within the front yard in any district shall not exceed forty eight (48) inches in height and shall be of a type which is not more than twenty five (25) percent solid, so as not to obscure vision at the right-of-way or property line of the lot or parcel on which it is placed.
- C. Fences in the R-2 District or enclosing residential uses shall not contain barbed wire or be electrified.
- D. Fences in Business and Industrial Districts which enclose storage lots or other areas requiring security may contain barbed wire, provided that the barbed portion of the fence shall not be nearer than six (6) feet from the surface of the ground. The total height of fences in any non-residential district shall not exceed ten (10) feet.
- E. Fences shall not be erected within any public right-of-way in any district.
- F. Fences shall not be erected or maintained in any district in such a way as to obstruct the vision of vehicle drivers within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two points located on those intersecting right-of way lines twenty five (25) feet from the point of intersection.
- G. Fences shall not be erected within two (2) feet from a sidewalk, where the sidewalk is within the public right-of-way.
- H. Fences shall be erected with the structural side, including all structural members, posts, braces, bolts, etc., facing the interior of the property that the fence encloses.

SECTION 2.4 REQUIRED ACCESS

Any lot created shall have frontage upon a public or private street for a distance equal to the minimum lot width requirement in the zoning district where the property is located. Lots with frontage on a cul-de-sac shall be permitted to have less street or road frontage (but in no case less than forty (40) feet of such frontage), and further provided that the lot width at the front setback line (or the rear setback line in the case of waterfront lots) and beyond shall satisfy the minimum lot width requirements of the zoning district in which the lot is located.

SECTION 2.5 HARDSHIP OR GUEST DWELLING

More than one main building or use may be located on a parcel within the A-1 and R-2 Districts for the purposes of providing a dwelling for a relative or guest, provided the parcel and dwelling meet all lot area and setback requirements. Such use shall be approved by the Planning Commission.

SECTION 2.6 PROJECTIONS INTO YARDS

- A. Certain architectural features, such as cornices, bay windows (or windows without foundations), gutters, chimneys, pilasters and similar features may project no further than four (4) feet into a required front, rear, or side yard.
- B. An open, unenclosed, and uncovered porch, paved terrace, deck, balcony or window awning may project no further than ten (10) feet into a required front yard, no further than fifteen (15) feet into a required rear yard, and shall not project into a required side yard. In no case shall a porch, deck, balcony or awning be placed closer than five (5) feet to any front or rear lot line.
- C. Any porch, terrace, deck, or balcony which is enclosed shall meet the minimum setback requirements of the main building or accessory building to which it is attached.
- D. No roof, roof overhang, or soffit shall extend into any required yard more than twelve (12) inches.

SECTION 2.7 ESSENTIAL PUBLIC SERVICES

The erection, construction, alteration or maintenance of essential public services shall be permitted in any zoning district; it being the intention thereof to exempt such erection, construction, alteration or maintenance from the application of this Ordinance.

SECTION 2.8 BUILDING HEIGHT EXCEPTIONS

The building height restrictions of all zoning districts shall be subject to the following exceptions: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, silos, stacks, stage towers and scenery lofts, water tanks, public monuments, church spires, and penthouses or roof structures housing necessary mechanical appurtenances.

SECTION 2.9 REQUIRED AREA OR SPACE

- A. No lot, adjacent lots in common ownership, required yard, parking area or other required open space shall be created, divided or reduced in dimensions or area below the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or adjacent lots in common ownership or a required yard, parking area or other open space shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Ordinance. Lots or yards created after the effective date of this Ordinance shall comply with the requirements of this Ordinance.
- B. Accessory buildings or structures, including, but not limited to, porches enclosed by walls, or garages, attached to a dwelling unit or other main building in a substantial manner, such as by a wall or roof, shall be deemed a part of such main building, for the purpose of determining compliance with the provisions of this Ordinance concerning required yards.
- C. No property access easement or device or lake, stream or river access easement or device shall be created except in compliance with this ordinance and prior to approval by the Township.

**SECTION 2.10 REGULATIONS APPLICABLE TO SINGLE-FAMILY DWELLINGS
OUTSIDE MANUFACTURED HOME PARKS**

Any single-family dwelling on a lot, whether constructed and erected or a manufactured home, shall be permitted only if it complies with all of the following requirements:

- A. If the dwelling unit is a manufactured home, the manufactured home must either be new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated, or used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced above, and found, on inspection by the Building Inspector or his designee, to be in excellent condition and safe and fit for residential occupancy.
- B. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy and other similar codes which are or may be adopted by the Township, provided, however, that where a dwelling unit is required by law to comply with any federal or state standards or regulations for construction, and where such standards or regulations for construction are different than those imposed by Township codes, then and in such event such federal or state standard or regulation shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Inspector.
- C. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including, without limitation, the minimum lot area, minimum lot width, minimum residential floor area, required yard and maximum building height requirements of the zoning district in which it is located.
- D. If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels removed.
- E. The dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site, such foundation to have a wall of the same perimeter dimensions as the dwelling unit and to be constructed of such materials and type as required by the building code for on-site constructed single-family dwellings. If the dwelling unit is a manufactured home, its foundation shall fully enclose the chassis, undercarriage and towing mechanism.
- F. If the dwelling unit is a manufactured home, it shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Mobile Home Commission, or any similar or successor agency having regulatory responsibility for manufactured home parks.
- G. The dwelling unit shall have a minimum horizontal dimension across any front, side or rear elevation of fourteen (14) feet.
- H. Storage area shall be provided within a building, with an area of no less than one hundred twenty (120) square feet. This storage area may consist of a basement, closet area, attic, or attached garage in a main building, or in a detached accessory building which is in compliance with all other applicable provisions of Section 2.2.
- I. Permanently attached steps or porch areas at least three (3) feet in width shall be provided where there is an elevation difference greater than eight (8) inches between the first floor entry of the dwelling unit and the adjacent grade.

SECTION 2.11 ILLEGAL DWELLINGS

Basements shall not be used for sleeping purposes, unless adequate ingress and egress is provided per the requirements of the Township building code and other applicable regulations. In no case, shall any living space located in a basement be counted toward the required floor area for the district in which it is located.

SECTION 2.12 CONSTRUCTION BUILDINGS AND STRUCTURES

Construction buildings and structures, including trailers, incidental to construction work on a lot, may be placed on such lot, subject to the following restrictions:

- A. Construction buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities, related to construction activity on the same lot.
- B. No construction building or structure shall be used as a dwelling unit.
- C. A building permit shall be issued by the Building Inspector prior to installation of a construction building or structure.
- D. Construction buildings and structures shall be removed from the lot within fifteen (15) days after an occupancy permit is issued by the Building Inspector for the permanent structure on such lot, or within fifteen (15) days after the expiration of a building permit issued for construction on such lot.

SECTION 2.13 KEEPING OF ANIMALS

- A. The keeping of household pets, including dogs, cats, fish, birds, hamsters and other animals generally regarded as household pets is permitted as an accessory use in any District. However, no more than three (3) dogs or cats, six (6) months of age or older, in any combination thereof, shall be kept or housed in or at one (1) dwelling unit in any R-2 or R-3 district.
- B. The keeping of animals not normally considered household pets, including, but not limited to, horses, pigs, sheep, cattle, and poultry shall be permitted in the A-1 District by right and parcels of at least two (2) acres in the R-2 District as a special land use.

SECTION 2.14 WATER AND SANITARY SEWER SERVICE

No structure for human occupancy shall, after the effective date of this Ordinance, be erected, altered or moved and used in whole or part for dwelling, business, industrial or recreation purposes unless provided with a safe, sanitary and potable water supply and with a safe and effective means of collection, treatment and disposal of human, domestic, commercial and industrial waste. Such installations and facilities, if not from an approved public system, shall conform to the minimum requirements for such facilities set forth by the State of Michigan Health Department, the Berrien County Health Department, and the Land Division Regulations, Building Code and other applicable ordinances of Weesaw Township.

SECTION 2.15 CORNER LOTS

- A. A corner lot shall have two front lot lines: a principal front lot line and a secondary front lot line. The principal front lot line shall be the shorter of the two lot lines. Where the lot lines are of equal length, and/or the principal front lot line is not evident, then the Zoning Administrator shall determine the principal front lot line. In each case, the two lot lines that are not front lines shall be considered side lot lines.
- B. General Provisions
 - 1. The required front setback shall be measured from both the principal and secondary front lot lines. For a corner lot with three front setbacks, the remaining setback shall be a rear setback.
 - 2. The remaining setbacks shall be a rear and a side setback. The rear setback shall be measured from the rear lot line, which in the case of a corner lot, shall be the lot line opposite the principal front lot line.
 - 3. The width of a corner lot shall be determined by the entire length of that front lot line which is opposite the rear lot line

C. Commercial and Industrial Zoning Districts.

For a corner lot which is completely within a C-1 or I-1 Zoning District, the setback along the secondary street(s) shall not be less than thirty (30) feet. All other setbacks shall comply with the minimum setback requirements of the zoning district within which the lot is located.

SECTION 2.16 REQUIRED LANDSCAPED BUFFERS

In order to provide protective screening for residential areas adjacent to or near non-residential areas, a landscaped buffer shall be provided along the District boundary line by the non-residential property owners. The buffer shall be a strip of land at least ten (10) feet wide planted with evergreens trees at least five (5) feet in height and placed fifteen (15) feet on center, or it shall be an evergreen hedge at least four (4) feet in height situated to provide an effective sound and visual buffer. The portion of the buffer not covered by such trees or hedges shall be planted with grass or other living material and kept in a healthy growing condition, neat and orderly in appearance. Any shrubs, bushes, or other plants that project into or across adjacent land may be trimmed back to the property line by the adjacent property owner. Landscaped buffers, including all vegetation, shall be maintained at all times and any dead or dying vegetation shall be replaced within ninety (90) days or a date certain as determined by the Zoning Administrator based on seasonal weather conditions, whichever is greater.

SECTION 2.17 HOME OCCUPATIONS

- A. Home occupations shall be approved by the Zoning Administrator, who may issue an approval upon receipt of a letter from the applicant stating his or her intent to comply with the requirements of this Section.
- B. No persons other than members of the immediate family residing on the premises shall be engaged in such occupation.
- C. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- D. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one (1) sign, not exceeding (4) square feet in area and non-illuminated.
- E. The home occupation shall be operated entirely within the principal dwelling and not within any detached accessory building or structure.
- F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street, and not in the required front yard.
- G. No equipment or process shall be used in such a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises.

SECTION 2.18 PRIVATE STREETS

- A. Purpose. The Township determines that it is in the best interest of the community to regulate the construction, improvement, extension, relocation, and use of private streets. These provisions have been enacted to assure that:

1. Proposed private streets will not be detrimental to the public health, safety, or general welfare;
2. Proposed private streets will not adversely affect the long term development policies of Weesaw Township;
3. Private streets will be designed and constructed with adequate width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.
4. Private streets will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and the natural environment of the Township.

B. Definitions.

1. "Condominium Act" means Public Act 59 of the Michigan Public Acts of 1978, as amended.
2. "Condominium unit" means that portion of the condominium project designed and intended for separate ownership and use, as described in the Master Deed of the condominium project.
3. "Condominium project" means a plan or project consisting of not less than two (2) condominium units established in conformance with the Condominium Act.
4. "Master Deed" means the condominium document recording the condominium project to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium plan for the project.
5. "Frontage" means the continuous linear distance of that portion of a parcel abutting upon a public street right-of-way, or private road easement.
6. "Parcel" means a tract of land which can be legally described with certainty and is capable of being located by survey.
7. "Private driveway" means an improved or unimproved path or road extending from a public right-of-way or private road easement to one single building, dwelling, or structure, intended to provide ingress and egress primarily for occupants thereof.
8. "Private street" means an undedicated, privately controlled and maintained easement designed and maintained in compliance with the provisions of this Ordinance that provides the means of access to two (2) or more abutting parcels or lots. The term "road" shall be synonymous with the terms street, avenue, place, way, drive, lane, boulevard, highway or other thoroughfare.
9. "Road Commission" means the Berrien County Road Commission.

C. Frontage and Access.

1. All parcels utilizing a private street shall have frontage on the approved private road for a distance equal to or greater than the minimum lot width required for the District in which the parcel is located.
2. All private streets shall have direct access to a public road.

D. Permits.

1. No individual, association, corporation, or entity, either public or private, shall construct, upgrade, or extend a private street after the effective date of this Ordinance without first having obtained a private road permit from the Township Board.
2. The Building Inspector shall not issue building permits for construction of any building or structure on lots or condominium units served by a private street until construction of the private street as approved by the Township Board has been completed.

3. A driveway permit shall be obtained from the Berrien County Road Commission prior to issuance of any building permit.
 4. A Soil Erosion and Sedimentation Control permit shall be obtained from the Berrien County Drain Commission, as may be required by the Soil Erosion and Sedimentation Control Act of 1972, as amended.
 5. All other required State of Michigan permits shall be obtained.
 6. The Township Board may elect to have all design and construction plans reviewed by the Township's attorney, engineer, or planner prior to consideration of the application for the private street permit.
- E. Application. The application for a Private Street shall be submitted and processed under the following procedures:
1. An application shall be submitted through the Zoning Administrator and shall contain the following:
 - a. An application form and fee as established by the Township Board.
 - b. A detailed written description of the development to be served by the private street.
 - c. Ten (10) copies of a site plan, drawn to scale, prepared by a registered engineer, showing a general location sketch, the precise location, grade, route, elevation, dimensions, and design of the private street and any proposed extensions thereto, existing and proposed curb cuts, and the location and distance to any public street which the private street is to intersect. The plan may be prepared by a registered surveyor, rather than a registered engineer, if the proposed private street is to serve five (5) or fewer parcels, main buildings, etc. and the Planning Commission waives said requirement in writing.
 - d. A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private street.
 - e. The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the private street easement or within twenty (20) feet of either side thereof. Copies of the instruments describing and granting such easements shall be submitted with the application.
 - f. The location of any lakes, streams, wetlands, and drains within the proposed easement or within one hundred (100) feet thereof.
 - g. The location of any other buildings and structures located, or to be located, within one hundred (100) feet of the private street right-of-way.
 2. Review procedures will be as follows:
 - a. The application, along with all other required information, shall be forwarded to the Planning Commission at its next scheduled meeting.
 - b. The Planning Commission shall hold a public hearing on the application, after establishing a date for the hearing, and providing notice of such hearing in a newspaper of general circulation in the Township and to all property owners within three hundred (300) feet of the subject property at least five (5) days, but not more than fifteen (15) days prior to such hearing.
 - c. The Planning Commission shall consider the request based on the standards of Sec. 2.19.F, as well as the design requirements of Sec. 2.19.G, and all other relevant provisions of this ordinance. The Planning Commission shall make a recommendation to the Township Board to approve, approve with conditions, or deny the request.

- d. The Township Board shall then review the application and such other information available to it through the public hearing or from any other sources, including recommendations or reports of the Planning Commission, and shall approve, approve with conditions, or deny the request, and state the basis for the decision and any conditions which should be imposed.
- e. No petition for Private Road approval, which has been disapproved, shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon resubmission.

F. Design Requirements. The construction of private streets shall conform to the Road Commission construction standards for local roads, excepting pavement width and grade requirements and as otherwise provided in this Ordinance, as follows:

- 1. No private street shall extend for a distance of more than two thousand six hundred forty (2,640) feet in length from the nearest public street right-of-way, as measured along the centerline of the private street, without a second direct access thereto being available from another public street.
- 2. All private streets shall have a recorded permanent right-of-way and easement with a minimum width of at least sixty six (66) feet. The right-of-way shall also expressly permit public or private utilities to be installed within the right-of-way.
- 3. The area in which the private street is to be located shall have a minimum cleared width of twenty eight (28) feet, which clearing shall always be maintained.
- 4. Pavement widths shall conform to the following table. Any private street serving four (4) or fewer parcels which is subsequently extended to serve more than four (4) parcels shall be upgraded in its entirety to meet the pavement width requirements of this Section.

Standards	Serving 4 or Fewer Lots	Serving More Than 4 Lots
Pavement Width	12 feet	20 feet
Materials	Road surface may be gravel, but shall meet the minimum construction standards of the Berrien County Road Commission for gravel roads.	Road surface shall be paved with bituminous aggregate and shall meet the minimum construction standards of the Berrien County Road Commission for paved local roads.

- 5. Any private street which terminates at a dead-end shall have a means for vehicle turn-around either by use of a cul-de-sac, with a minimum radius of forty (40) feet, or by a continuous loop private street system, both of which must be constructed in accordance with the standards set forth in this Section.
- 6. The road surface shall have a minimum crown of .02 foot per foot from the centerline of the private street to the outside edge thereof.
- 7. A road shoulder at least two (2) feet wide, composed of six (6) inches of compacted gravel, shall be provided on each side of the private road surface and shall slope one-half (½) inch per foot from the outside edge of the road surface to the toe of the slope.
- 8. The maximum longitudinal road grade shall not exceed six percent (6%), provided that the Township Board may allow up to a ten percent (10%) grade if the applicant produces written justification, satisfactory to the Township Board, that an increase in the road grade will not adversely affect public safety and the design of the road system(s). The Township Board may seek written recommendations from the Township Engineer.
- 9. The layout of the private street and the intersections of the private street with either a public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured, as determined by the Township engineer. The minimum

distance between intersections of public and/or private street rights-of-way shall not be less than three hundred (300) feet, as measured along the right-of-way line thereof.

10. The private street shall be constructed with such storm water runoff, culverts, and drainage contours as is required by the Township Board and Berrien County Drain Commission to ensure adequate drainage and runoff.
11. The method and construction technique to be used in the crossing of any natural stream, wetland, or drainage course shall satisfy the requirements of the Township engineer and any other agency having jurisdiction thereof.
12. The private street shall be given a name and street signs shall be installed in accordance with the standards and approval of the Road Commission. The private street addresses shall be posted in a conspicuous place at the entrance to the private street (at the intersection with the public road) in letters at least three (3) inches high. Private streets serving two (2) or more dwellings shall have a standard stop sign where the private street abuts the public street.

G. Approval Standards.

1. Prior to approving a private street permit application, the Township Board shall determine the following:
 - a. The proposed private street will not be detrimental to the public health, safety, or general welfare.
 - b. The proposed private street will not adversely affect the use of land.
 - c. That the private street is designed and constructed with width, surface, and grade to assure safe passage and maneuverability of private and public safety vehicles.
 - d. That the private street is constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the Township.
2. The Township Board may require that the applicant comply with reasonable conditions relative to the design and construction of the private street.

H. Maintenance and Repairs.

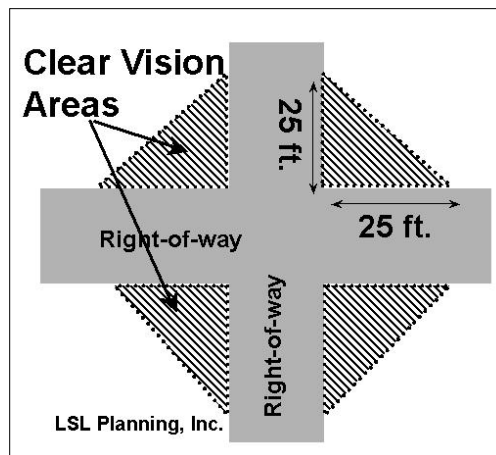
1. Private streets shall be maintained in a manner that complies with the provisions of this Section.
2. All driveways and private streets shall be continuously maintained in such a way that they will not constitute a danger to the health, safety, and welfare of the inhabitants of the Township and are readily accessible to, and usable by emergency vehicles in all types of weather.
3. All costs for maintenance and repair of the private street shall be the responsibility of the property owners (if less than five (5) lots) or a property owners association (if five (5) or more lots) served by the private street.
4. The applicant(s)/owner(s) of the proposed private street right-of-way or private street shall provide the Township Board with a recordable private street maintenance or restrictive covenant agreement between the owner(s) of the private street right-of-way and any other parties having any interest therein (if less than five lots) or a property owner's association (if five or more lots) which shall provide that the private street shall be regularly maintained, repaired, and snow plowed so as to assure that the private street is safe for travel at all times and the cost thereof paid. The applicant(s) agree, by filing an application for and receiving a permit under this Ordinance, that they will assure that any building(s) or parcels thereafter created or constructed on the private street shall also be subject to the

street maintenance or restrictive covenant agreement and that said agreement shall be recorded and shall run with the land. Once approved by the Township, a copy of said agreement as recorded with the Berrien County Register of Deeds Records shall be furnished to the Township prior to the issuance of the private street permit.

- I. Performance Guarantee. The Township Board may, as a condition of the private street construction permit, require that the applicant provide a performance guarantee, in accordance with the provisions of Section 16.3.B.
- J. Inspections/Certificate of Compliance.
 - 1. Upon completion of construction of the private street the Zoning Administrator or his designee shall inspect the completed construction to determine whether it complies with the approved plans, specifications, permit, and this Ordinance.
 - 2. The applicant, at their own expense, shall provide the Township with a set of “as built” drawings bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of the permit.
 - 3. If the completed private street does not satisfy the requirements of the permit or this Ordinance, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant to the penalties provided for in this Ordinance.
- K. Fees. Fees for the permits required hereunder shall be set by the Township Board from time to time by resolution.
- L. Indemnification. The applicant(s)/owner(s) of the private street agree that by applying for or securing a permit to construct the private street they shall indemnify and will hold the Township harmless from any and all claims for personal injury and/or property damage arising out of the use of the private street or of the failure to properly construct, maintain, use, repair, and replace the private street.

SECTION 2.19 CLEAR VISION

- A. No plantings shall be established or maintained on any corner lot which will obstruct the view of a vehicle driver approaching the intersection. Such unobstructed corner shall mean a triangular area formed by the street right-of-way lines and a line connecting them at points twenty five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the right-of-way lines extended. This shall not prohibit the planting of shrubbery which will not achieve a height at maturity of more than thirty (30) inches.
- B. No plantings shall be established in any required front yard which, in the opinion of the Zoning Administrator, will obstruct the view from driveways or adjacent roadways of vehicles entering or leaving the site.



SECTION 2.20 VEHICLE REPAIR IN RESIDENTIAL DISTRICTS

No person, as owner or tenant, shall perform mechanical or body work on any motor vehicle in a Residential District, except under the following conditions:

- A. Work may be done only on a vehicle used by the property owner or tenant or his immediate family, as family transportation.
- B. The property owner or tenant must have proof of ownership available for inspection.
- C. No inoperable, partially dismantled, wrecked, junked or discarded vehicle or equipment, nor any parts thereof, shall be parked, stored or placed in the open for longer than five (5) days on any premises in the R-2 and R-3 Districts.

SECTION 2.21 TEMPORARY DWELLINGS

- A. The Zoning Administrator may issue a permit to an individual to park and occupy a temporary dwelling in any District provided that the following conditions are met:
 - 1. The temporary dwelling will be used only as a temporary use on the lot while the property owner is constructing a permanent residence on that same lot, and further provided that:
 - a. A building permit has been issued for the construction of a permanent residence to the property owner applying for the temporary dwelling permit.
 - b. The temporary dwelling is permanently connected to an approved well and septic system.
 - c. The temporary dwelling is sufficiently secured to the ground to prevent overturning through the actions of high winds or other natural conditions.
 - 2. The temporary dwelling will be used as a temporary or seasonal residence within the A-1 or R-2 districts, and further provided that:
 - a. The dwelling shall be a wheeled vehicle, licensed and registered, and in compliance with the Michigan Motor Vehicle Code with properly inflated tires, and working turn signals and brake lights.
 - b. The dwelling shall be designed for sleeping and camping and shall contain, at a minimum, portable sanitary facilities.
 - c. The dwelling shall not be occupied for a period in excess of thirty (30) days, unless permanent, on-site sanitary facilities, approved by the Berrien County Health Department are installed, in which case the permit may be issued for a period from April 1 through November 30.
- B. The Zoning Administrator shall determine the required size of the dwelling and placement on the lot. Such determination shall be consistent with the standards of Section 2.21.D.
- C. Upon applying for a temporary dwelling approval, the applicant shall pay a fee as determined by the Township Board. All original temporary dwelling permits issued in conjunction with the construction of a permanent dwelling shall be limited to a period of six (6) months. If the permanent residence is not approximately fifty percent (50%) complete, as determined by the Zoning Administrator, within the six (6) month period, one (1), six (6) month extension or less may be permitted by the Zoning Administrator only for the purpose of completing the residence. No more extensions shall be permitted, except by action of the Zoning Administrator after consideration of the standards of this Section.
- D. In considering authorization for any temporary uses or structures, the Zoning Administrator shall consider the following standards:
 - 1. That all applicable requirements of Section 2.21.A.1 and 2 are met;

2. That there will be no unsanitary conditions or other detrimental effects upon the property, occupants, or adjacent properties;
 3. That, in the case of occupancy during construction, the use or structure is reasonably necessary for the convenience and safety of the construction proposed;
 4. That the use or structure does not impact the nature of the surrounding neighborhood;
 5. That access to the use, area, or structure is located at the least offensive point on the property; and
 6. That a hardship exists which necessitates the use of a temporary structure during construction of a permanent structure.
- E. The Zoning Administrator may attach reasonable conditions to temporary uses or structures to ensure that the standards of this Section are met.
- F. All temporary dwellings, buildings, and uses shall be removed from the premises following the expiration of the permit and any extensions, or upon completion of the permanent building or structure.

SECTION 2.22 RIPARIAN ACCESS

- A. In all districts, there shall be at least one hundred (100) feet of a lake, river or stream frontage, as measured along the ordinary high-water mark of the lake, river, or stream, for each single-family home, dwelling unit, cottage, condominium unit, site condominium unit or apartment unit utilizing or accessing the lake, river or stream frontage; provided however, the above frontage shall not supersede frontage requirements which may be greater as provided elsewhere in this ordinance.
- B. In all zoning districts, no lake or river access, boat ramp, shore station, dock, boat launch or shoreline abutting a lake shall be utilized for commercial, business, outdoor recreational (or entertainment) facilities, institutional, nonresidential or nonagricultural uses or purposes unless such use complies with the requirements of the zoning district in which it is located.
- C. The lake, stream and river access and use regulations contained in this section shall be fully applicable to all planned unit development and special land use projects or developments.
- D. In addition to the above limitations, no easement, private park, common area or lot or access property abutting or adjoining a lake or river shall be used to permit access to the lake, river or stream for more than one (1) single-family home, dwelling unit, condominium unit, site condominium unit, apartment unit or any other use unless such additional access use is permitted in the zoning district in which it is located and furthermore such use must also be approved as a special land use or planned unit development.

SECTION 2.23 BASEMENT DWELLINGS

The use of any basement as a dwelling is prohibited. Any dwelling without a full floor above grade level shall be considered a basement dwelling. An underground home with an approved Special Land Use permit is not considered a basement dwelling. Permitted below grade living areas shall be constructed to Michigan Building Code requirements.

SECTION 2.24 UNWHOLESOME SUBSTANCES

- A. No unwholesome substance, as hereinafter defined, shall be deposited, buried, stored, dumped or accumulated by any person in any body of water or on or under any land, private or public, in the Township, unless such place has been designated as a public dumping ground by the Township, or unless such substance is housed in a completely enclosed building and in a safe and sanitary manner. For purposes of this Section only, the term “unwholesome substance” shall be defined to mean any trash, garbage, tin can, automobile body, junk vehicle, trailer body, junk, hazardous compounds, waste, offal, refuse, rubbish, food containers, bottles, crockery or utensils, stoves, ashes, clinkers, cinders, oil, hazardous or harmful substances, industrial byproducts or waste,

flammable matter or substances, debris, filth, or any other material which constitutes a threat or menace to the health, safety or general welfare of the public. For the purposes of this Section only, the term “automobile body” shall be defined to mean any vehicle which (1) is unable to be driven upon a street under its own power and/or (2) which lacks all of the necessary component parts to make it operable and serviceable as a vehicle. For purposes of this Section only, the term “trailer body” shall be defined to mean any boat trailer, utility trailer, horse or animal trailer, truck trailer, travel trailer or any type of trailer or device used for hauling or moving things which lacks all of the necessary component parts to make it operative and serviceable as a trailer to be pulled as such on a street. The provisions of this Section shall not be deemed to prohibit the storing or spreading of manure, fertilizers or other soil conditioners or the use of a trailer body for the storage of such materials as part of a farm operation.

- B. No sewage, waste water or water containing foreign substances shall be deposited or drained onto any land or deposited or drained into any open ditch, creek, stream, lake, pond or other body of water unless the same has been first approved by the Michigan Department of Health and the Berrien County Health Department.
- C. No boxes, barrels, waste wood, lumber, scrap metal, automobile body, or other materials shall be accumulated by any person so as to provide insect, rat or rodent harborage.

SECTION 2.25 CONSTRUCTION TIME LIMITS

Once construction or installation has begun regarding a building or structure, such building or structure shall be finished and an occupancy permit shall be issued in accordance with all other applicable township ordinances.

SECTION 2.26 LOT WIDTH-TO-DEPTH RATIO

In all zoning districts, the depth of all lots created of record after the adoption of this ordinance shall not exceed four (4) times the width of the lot. The Planning Commission may permit, as a special land use, a lot with a depth greater than four (4) times the width of the lot, if the Planning Commission determines that the area in which the lot is located is not suitable for future development because of the presence of wetlands or severe topography or if such lot or parcel is located in a flood plain. In addition, as to lands in the A-1 Rural-Agricultural District, the Planning Commission shall permit such a special land use only if it determines that the following conditions have been satisfied:

- A. The parcel is poorly suited for agricultural production due to existing soil conditions, slope, or the presence of natural vegetation, such as woodlots, brush land, and wetlands. The Planning Commission, in making its determination, may consider facts such as, but not limited to, past and present uses of the parcel, past productivity, and the difficulty in making the parcel suitable for farming, including the presence of highly erodible land, as defined by the Soil Conservation Service.
- B. There will be a minimal likelihood of conflicts arising between the residential use and the surrounding agricultural activities.
- C. The permitting of the residential use in the circumstances under consideration will not adversely affect the long-term plans and development policies of Weesaw Township.

SECTION 2.27 CONSTRUCTION OF ACCESSORY BUILDINGS IN THE R-2 AND R-3 DISTRICTS

Accessory buildings shall be the equivalent of new building construction. No mobile home, tank, junk object, or salvage materials, trailer, vehicle or similar item shall be utilized as an accessory building or storage structure; provided, however, that such requirement shall not be applicable to bona fide agricultural

storage or activities, or to tool sheds or similar temporary storage structures utilized pursuant to the construction of a building, so long as the period of construction does not exceed one (1) year.

SECTION 2.28 LAND DIVISIONS

No lot, parcel or access easement shall be created that does not fully comply with the minimum area, width, frontage, and other requirements of the Weesaw Township Zoning Ordinance, as amended. All land divisions, splits, or boundary reconfigurations of platted lots and unplatted parcels shall meet the requirements of the Zoning Ordinance and the requirements of the Michigan Land Division Act (Public Act 288 of 1967). No land division, lot split, creation of an access easement, or reconfiguration of boundary lines shall occur until and unless a land division permit has been obtained from the Zoning Administrator or such other person as may be designated from time to time by resolution of the Township Board. No permit for a land division shall be issued until and unless the Township determines that the land division, lot split, access easement, or boundary reconfiguration, as well as the resulting lots, access easements or parcels fully complies with the requirements of the Zoning Ordinance, as amended, and all other applicable Township ordinances. Fees for a land division permit shall be set as determined from time to time by resolution of the Township Board. No land division permit shall be approved or issued unless the application is accompanied by a survey done by a registered land surveyor or engineer showing all resulting lots or parcels, easements (if any), and full legal descriptions. The Township Board can waive the requirement of a survey in a given case for good cause shown by the applicant. No permit for division of a platted lot or lots, or reconfiguration of boundary lines for a platted lot or lots, shall be issued until and unless such land division is approved by the Planning Commission. No platted lot shall be divided into more than four (4) parts.

SECTION 2.29 PRIVATE DRIVEWAYS AND DRIVEWAY SPACING

Two (2) lots or parcels may be served by a single private driveway. The driveway must meet the requirements and specifications set out by the Berrien County Road Commission for private driveways. The minimum road frontage requirement for each lot or parcel shall equal the minimum lot or parcel width of each zoning district.

SECTION 2.30 SITE CONDOMINIUMS

- A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership which is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended.
- B. A site condominium unit shall be treated as a separate lot or parcel. It may have buildings constructed on it, and uses conducted on it as allowed in the Zoning District in which it is located. However, such unit shall meet the District Regulations for the Zoning District in which it is located.
- C. A site plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed and approved in accordance with Chapter 12.

SECTION 2.31 OPEN SPACE PRESERVATION

- A. Purpose: The purpose of this Section is to adopt open space preservation provisions consistent with the Zoning Act, which requires qualifying townships to permit lands satisfying specified criteria to be developed, at the option of the landowner, with the same number of dwellings on a portion of the land specified in the zoning ordinance, but not more than 50%, that could otherwise be developed, under existing regulations, on the entire land area.
- B. Qualifying conditions: Land may be developed under the provisions of this Section only if each of the following conditions is satisfied:

1. The land shall be zoned A-1 or R-2, provided that only single family dwellings shall qualify under the provisions of this Section.
 2. The District in which the land is located shall permit development at a density equivalent to two (2) or fewer dwelling units per acre, if the land is not served by a public sewer system; or three (3) or fewer dwelling units per acre, if the land is served by a public sanitary sewer system;
 3. The development of land under this Section shall not depend upon the extension of a public sanitary sewer or a public water supply system to the land, unless the development of the land without the exercise of the clustering option provided by this Section would also depend on such extension;
 4. The open space preservation option shall not have previously been exercised with respect to the same land; and
 5. The property that is the subject of an Open Space Preservation Development application shall contain a minimum of forty (40) contiguous acres. The Planning Commission, in its sole discretion, may permit a smaller minimum site size for a specific project if it determines that the purpose of these regulations, as stated in Section 2.31.A, would be advanced by such project.
- C. Permitted uses: Only dwelling units and non-dwelling unit structures, as described in Section 2.31.F.10, permitted by the District in which the land is located shall be permitted on land developed, or used pursuant to the provisions of this Section.
- D. Application and Review Procedure: The application and review procedures for land proposed to be developed pursuant to this Section shall be those stated in Section 12.1 of this Ordinance, governing site development plans, except as otherwise provided in this Section. In addition to the application materials required by Section 12.1.C.1.c of this Ordinance, an application for the development of land under the provisions of this Section shall include the following:
1. A Parallel Plan prepared for the purpose of demonstrating the number of dwelling units that could reasonably be developed on the land under its existing zoning if the open space preservation option were not exercised. The Parallel Plan may be conceptual in nature but shall include at least the following information:
 - a. Date, north arrow and scale, which shall not be more than one inch equals one hundred feet (1" = 100'), and in all cases, the scale shall be the same as that utilized for the site development plan illustrating the proposed open space preservation development.
 - b. Location of street rights-of-way or easements.
 - c. Location of all lots, illustrating lot area and width to demonstrate compliance with the minimum requirements of the applicable zoning district.
 - d. Required building setback lines on all lots to demonstrate the availability of sufficient buildable land to make the lot usable.
 - e. Location of all utilities that would be necessary to serve a development under the Parallel Plan and which would not be located within any public road right-of-way or private street easement, or on buildable lots. Such utilities include, but are not limited to, storm water retention or detention basins, community sewage treatment systems and community water supply facilities.
 - f. If development under the Parallel Plan would require the use of septic tanks and drain fields, such Plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot would be approved, or has been approved, by the Berrien County Health Department.

- g. The location of all portions of the land that is unbuildable for residential purposes due to the presence of wetlands, slopes in excess of fifteen percent (15%), flood plains, or other features prohibiting development for residential purposes.
2. When reviewing an application submitted under the terms of this Section, the Planning Commission shall determine whether the Parallel Plan accurately reflects the number of dwelling units that could be developed on the land under its existing zoning. If the Planning Commission determines that the number of dwellings illustrated on the Parallel Plan exceeds the number of dwellings that could be permitted on the land if it were developed under its existing zoning, the applicant shall submit a revised site development plan for the clustering option reflecting the permitted number of dwellings, as determined by the Planning Commission.
 3. A copy of the conservation easement, plat dedication, restrictive covenants, or other legal instrument that would run with the land, and would have the legal effect of preserving the open space in perpetuity in an undeveloped state. Such legal instrument shall be reviewed by the township attorney prior to recording, and shall be subject to the approval of the Township Board, consistent with the terms of this Section. The legal instrument shall:
 - a. Indicate the proposed permitted use(s) of the undeveloped open space.
 - b. Require that the open space be maintained in perpetuity in an undeveloped condition, without buildings, structures or other improvements, except such drainage improvements, utility lines, riding trails, hiking trails, picnic areas, park or playground equipment, agricultural structures or similar improvements that may be approved by the Planning Commission.
 - c. Require that the open space be maintained by parties who have an ownership interest in the property.
 - d. Provide standards for scheduled maintenance of the open space, including necessary pruning and harvesting of trees and new plantings.
 4. The site development plan for the open space preservation option shall include the following minimum information, in addition to that required by Section 12.1.C.2 of this Ordinance:
 - a. Land proposed to remain in a perpetually undeveloped state and the portions of the land to be used for clustered development.
 - b. Total number of acres of land proposed to remain in a perpetually undeveloped state, the total number of acres of land proposed to be used for clustered development, and the area contained within rights-of-way or easements for streets. The percentage of each, as compared to the total site acreage, shall be indicated.
 - c. Lots and proposed building envelopes and indicate the lot area and width of each lot. The number of lots on the site development plan shall not exceed the number of lots on the Parallel Plan, as approved by the Planning Commission, and reduced to accommodate non-dwelling structures, if necessary, as described in Section 2.31.F.11.
 - d. Location and type of all proposed structures or improvements that are not dwellings.
 - e. Location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot has been approved by the Berrien County Health Department.
 5. If the development is to be served by public streets, proof that the Berrien County Road Commission has approved the design, layout and construction of the streets.

- E. If a site development plan satisfies all applicable requirements of Section 12.1.C.2 of this Ordinance, all requirements of this Section, and all conditions of approval imposed by the Planning Commission pursuant to Section 12.1.D, the Planning Commission shall approve the site development plan. The Planning Commission may require performance guarantees, in accordance with Section 15.3.B.
- F. Development requirements:
1. Required Open Space. At least fifty percent (50%) of the land proposed for development under the provisions of this Section shall remain in a perpetually undeveloped state (i.e., "open space"), as provided in Section 2.31.D.3. The following areas shall not constitute open space:
 - a. The area within all public street rights-of-way.
 - b. The area within all private street easements.
 - c. Any easement for overhead utility lines, unless adjacent to open space.
 - d. The area within a platted lot or site condominium unit
 - e. Off street parking areas.
 - f. Detention and retention ponds.
 - g. Community drainfields.
 - h. Areas devoted to community water supply or sanitary sewer treatment systems.
 - i. Marinas.
 - j. Club houses and swimming pools.
 2. Standards for Open Space. The following standards shall apply to the open space required pursuant to this Section:
 - a. The open space shall not include a golf course.
 - b. The open space may include a recreational trail, picnic area, children's play area, greenway, linear park, natural area, agricultural use or other use which, as determined by the Planning Commission, is substantially similar to these uses.
 - c. The open space, other than agricultural land, shall be available for all residents of the development, subject to reasonable rules and regulations and shall be reasonably usable by such residents for passive recreation such as hiking and picnicking. The open space may be, but is not required to be, dedicated to the use of the public.
 - d. Open space shall be located so as to be reasonably accessible to the residents of the development. Safe and convenient pedestrian access points to the open space from the interior of the development shall be provided.
 - e. A portion of the open space shall be located along the perimeter street frontage abutting the land. The depth of this area shall be at least fifty (50) feet, not including public right-of-way, and this area shall be left in its natural condition or be landscaped to help to preserve or enhance the existing views.
 - f. Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands or agricultural land.
 - g. If the land contains a lake, stream or other body of water, the Planning Commission may require that a portion of the open space abut the body of water.
 3. Use of Open Space. All dwelling units and other structures and improvements shall be located outside that portion of the land designated as open space. However, the Planning

Commission, in its discretion, may permit structures or improvements to be located in the open space if such would be consistent with the designated purpose of the open space. By way of example only, park or playground equipment could be permitted on open space designated for recreational use, or agricultural structures could be permitted on open space designated for agricultural use. However, club houses, swimming pools, golf courses, marinas, and similar recreational amenities shall not be permitted within the designated open space.

4. Underlying Zoning District. The development of land under this Section shall comply with all requirements of this Ordinance applicable to the District in which the land is located, except those setbacks and lot area requirements that must be adjusted to allow the clustering option permitted herein.
5. Uniform Lot Size. Lots shall be as uniform in area as is reasonably practicable, unless otherwise approved by the Planning Commission.
6. Building Envelopes. The location and area of building envelopes, as proposed by the applicant, shall be subject to the review and approval of the Planning Commission. The location and area of building envelopes shall be established to achieve the intent and purpose of the zoning district in which the land is located.
7. Required Frontage. Each lot shall have a minimum of fifty (50) feet of frontage measured at the street right of way or easement line. All dwelling lots shall be accessed from an interior street within the development and shall meet the minimum frontage requirement on such interior street.
8. Lot Width. Each lot shall have a minimum width equal to no less than one-half (1/2) the minimum lot width specified for the zoning district in which the land is located.
9. Maximum Number of Lots. The clustered portion of the development shall contain no more than the maximum number of lots, as determined from the Parallel Plan approved by the Planning Commission, and as reduced to reflect the inclusion of non-dwelling unit structures, if any, as described in Section 2.31.F.11.
10. Non-Dwelling Unit Structures. Lots containing non-dwelling structures, such as a clubhouse and its related amenities, shall be subject to all requirements of this Section applicable to lots containing dwellings and shall further be subject to all other requirements of this Ordinance and other Township ordinances applicable to the type of structure proposed.
11. Reduction in Lots for Non-Dwelling Structures. If structures other than dwellings, such as a clubhouse, are constructed on a lot in the clustered portion of the land, the number of dwelling lots permitted to be developed shall be reduced as follows:
 - a. The area occupied by non-dwelling structures, shall be divided by the average area of dwelling lots that could be situated in the clustered development if the non-dwelling structures were not included, based on the approved Parallel Plan. If this number is a fraction, it shall be rounded up to the nearest whole number.
 - b. The number calculated under subsection A shall be subtracted from the number of dwelling lots that could be permitted in the clustered development, as determined from the approved Parallel Plan.
12. Perimeter Lots. Notwithstanding any other provision of this Section, the Planning Commission may require that the open space preservation development be designed and constructed with lot sizes and setbacks on the perimeter that will be reasonably consistent with the lot sizes and setbacks of adjacent uses (planned or existing).
13. Grading. Grading within the development shall comply with the following requirements:
 - a. To preserve the natural appearance of the land, all graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed on the area of land to

be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof. Retaining walls may be required.

- b. All areas indicated as open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise, except as permitted by the Planning Commission. Drainage improvements, utility lines, riding trails, hiking trails, picnic areas, and similar recreational improvements and amenities may be placed in open space areas if approved by the Planning Commission.
- c. Grading within the clustered development shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land, and so as to have only such minimal effect upon the environmental characteristics of the land as may be reasonably feasible.

14. Private Streets. Private streets within an open space preservation development shall conform to the private street requirements of this Ordinance.

15. Other Laws. The development of land under this Section is subject to all other applicable Township ordinances, state and federal laws, rules and regulations, including, but not limited to, rules relating to suitability of groundwater for on-site water supply for land not served by a public water system, and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sanitary sewers.

G. Amendments to an Approved Site Plan:

- 1. An approved open space preservation development plan and any conditions imposed upon its approval shall not be changed except upon the mutual consent of the Planning Commission and the applicant, except as otherwise stated below with respect to a minor change.
- 2. Changes to an approved development plan shall be permitted only in accordance with the provisions of Section 12.1.E.2.c.

H. Time Limitation on Development:

- 1. Each development permitted pursuant to this Section shall be under construction within one year after the date of approval of the open space preservation plan by the Planning Commission. If this requirement is not met, the Planning Commission may, in its discretion, grant no more than one extension not exceeding one year, provided that the applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in the commencement of the clustered development.
- 2. If the clustered development has not been commenced within the above-stated time period, or within any authorized extension thereof, any building permits issued for the

development or any part thereof shall be of no further effect. The applicant shall then be required to seek renewed approval from the Planning Commission under the terms of this Section in order to exercise the clustering option.

SECTION 2.32 SWIMMING POOLS

- A. Any pool over (24) inches deep and with a surface area of more than two hundred and fifty (250) square feet shall not be constructed, installed, enlarged or altered until a building permit has been obtained and shall comply with the requirements of this Section.
- B. The outside edge of the pool wall and/or the deck and any other appurtenances shall not be located closer than ten (10) feet from any rear or side property line. Swimming pools shall not be located in the front yard.
- C. Each pool shall be enclosed by a minimum five (5) foot high stockade fence, wall, or other structure or device, sufficient to make the pool inaccessible to small children. This enclosure, including gates therein, must be not less than five (5) feet above the underlying ground; all gates must be self-latching with latches placed five (5) feet above the underlying ground or otherwise made reasonably inaccessible from the outside to small children.
- D. All swimming pool installations shall comply with the State Construction Code and all standard codes referred to therein.

[AMENDED 1/20/2010]

Sec. 2.33 WIND ENERGY CONVERSION SYSTEMS

- A. Purpose: This section establishes requirements and procedures by which the installation and operation of Wind Energy Conversion Systems (WECS) shall be governed within Weesaw Township.
- B. Definitions: all definitions related to WECS are found under “Wind Energy Conversion Systems” in Section 1.22, Definitions – W.
- C. Limitation. Only On-Site Service WECS shall be allowed. Commercial WECS shall not be permitted.
- D. Review Requirements: An On-Site Service WECS shall be allowed as an accessory use in any zoning district, subject to the requirements of this Section. On-site service WECS shall be subject to the general requirements of this Section as well as Site Plan Review, as required in Chapter 12.
- E. General Requirements
 - 1. WECS Height: The height of a WECS shall be the distance measured between the ground (at normal grade) and the highest point of the WECS. For a horizontal axis WECS, the measurement shall be to the tip of the rotor blade when the blade is in the full vertical position). The grade at the base of a WECS may not be increased for the purpose of increasing the effective height of the WECS. See Figures 1 and 2.

2. **WECS Setback.** Setbacks shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line (see graphic). No part of a WECS (including guy wire anchors, if present) shall be located within or above any required setback. See Figures 1 and 2.
3. **Noise.** No sound attributed to the WECS in excess of 55 dB(A) shall be discernible at the property line.
4. **Signs.** There shall be no signs on the WECS other than the name of the manufacturer, which may only be affixed near the base of the tower and/or to the nacelle. No sign shall exceed three (3) square feet in area.
5. **Lighting.** There shall be no lighting on or directed to the WECS, unless a beacon is required by the Federal Aviation Administration.
6. **Color.** The WECS shall be painted in a neutral matte color, such as gray or light blue, to blend into the background. A building mounted WECS may be painted in similar colors to those on the building.
7. **Safety.** A WECS shall have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding.
8. **Interference.** A WECS shall not be installed in any location where its proximity to existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception.
9. **Certification.** The applicant shall provide written evidence that the WECS complies with all applicable federal, state and county requirements, in addition to Township ordinances.
10. **Compliance.** All WECS installations shall comply with applicable ANSI (American National Standards Institute), NEC (National Electric Code) IEC (International Electric Code) and National Building Code standards.

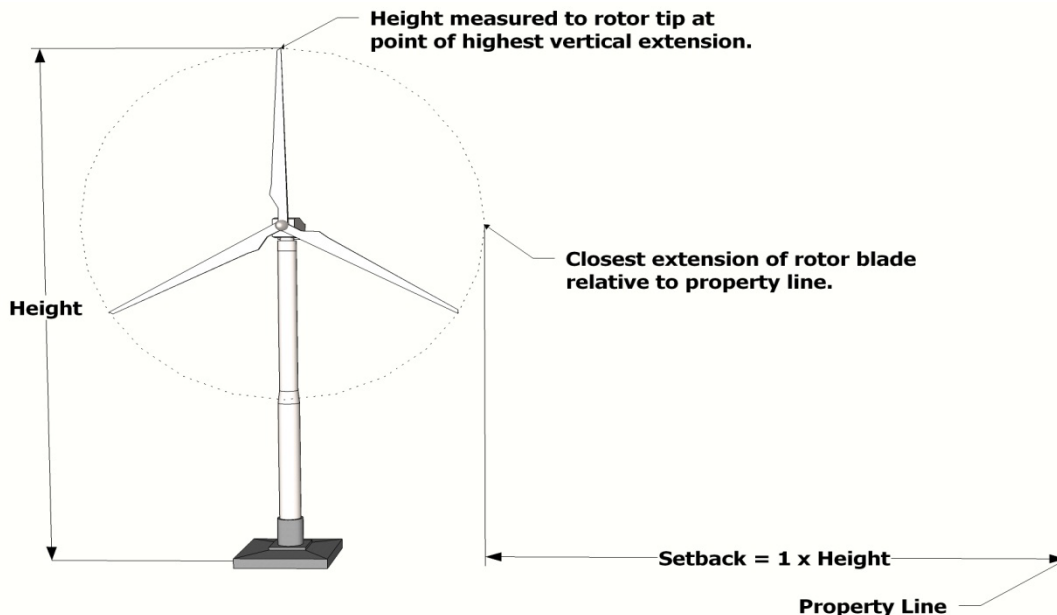


Figure 1: Ground Mounted WECS Height and Setback

11. **Maximum Power Rating.** Power rating of the on-site service WECS turbine shall not be greater than 25 kW.
12. **Providing Electrical Power.** An on-site service WECS shall provide electrical power only to the structures and uses on the same property upon which the WECS is located and must be owned or leased by the owner of the same property; however, this does not prevent the distribution to a utility company, through net metering, of any power that is generated beyond the needs of the structures or uses on the property. Except for a utility company, power generated by the WECS may not be provided to any other property or entity.
13. **Abandonment.** A WECS shall be removed when the device or equipment is no longer operating or when it has been abandoned. A WECS shall be deemed abandoned when it has not produced electrical energy for twelve (12) consecutive months or longer.
14. **Repair and Maintenance.** An existing and approved on-site service WECS may be repaired and maintained; however, a WECS may only be replaced with a new or replacement WECS upon approval of the Zoning Administrator, subject to a finding that the new WECS is of the same or lesser height, rotor diameter, setback, etc. as the WECS it replaces. Any new or replacement WECS that is larger in any respect than the one it replaces must be approved via the Site Plan Review process. For the purposes of this paragraph, a “new or replacement WECS” shall mean all of the WECS, excluding the tower or support structure.
15. **On-Site Service WECS Test Facility.** The Zoning Administrator may issue a permit to erect a test facility for testing if adequate wind potential exists on the site proposed for an on-site service WECS, provided that the tower meets the height maximum and setback requirements for an on-site service WECS on the same site. The WECS Test Facility permit shall be valid for a period of up to one (1) year.

F. **Ground-Mounted On-Site Service WECS**

1. **Number.** There shall be no more than one (1) ground mounted on-site service WECS per parcel or lot.
2. **Setback.** The on-site service WECS shall be located on the property so that it is set back from the nearest property line a distance equal to the WECS height, measured to the closest vertical extension of the rotor blade relative to the property line (see illustration).
3. **Lot Area.** The on-site service WECS height shall be limited by available setbacks as required in paragraph b, above; however, no WECS height shall exceed fifty (50) feet on a property less than one (1) acre in area; seventy-five (75) feet on a property at least one acre but less than three (3) acres in area; or one hundred (100) feet on a property three (3) acres in area or greater.
4. **Rotor Blade Tip Clearance**
 - a. The minimum rotor blade tip clearance from grade shall be twenty (20) feet.
 - b. The minimum rotor blade tip clearance from any structure or overhead utility line shall be twenty (20) feet.

5. Rotor Blade Diameter. The diameter of the rotor shall be dependent upon maximum WECS height, setback and rotor blade tip clearance, but in no case shall it exceed fifty (50) feet.
6. Tower. The tower used to support a WECS shall be adequately anchored meeting applicable codes and standards, as certified by an engineer.

G. Building Mounted On-Site Service WECS

1. Number. There may be more than one (1) on-site service WECS mounted on a single building; however, each individual WECS shall meet all of the requirements in this subsection, and each WECS shall be separated from any other WECS no less than ten (10) feet, measured between the maximum extension of the rotors.
2. Rotor Blade Diameter. The diameter of the rotor shall not exceed twenty (20) feet.
3. Height. The WECS height shall not exceed the maximum height for principal buildings in the district, plus fifteen (15) feet.
4. WECS Setback. The WECS shall be mounted so that it is set back from the nearest property line(s) a distance equal to the combined height of the WECS and the height of the portion of the structure on which it is mounted. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line (see graphic).
5. Mount. The mount and the structure used to support a building mounted WECS shall meet applicable codes and standards, as certified by an engineer.

H. Approval of On-Site Service WECS

1. All on-site service WECS shall be reviewed and approved through the site plan review process, as outlined in Chapter 12.
2. Discretionary Conditions: The Planning Commission may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal

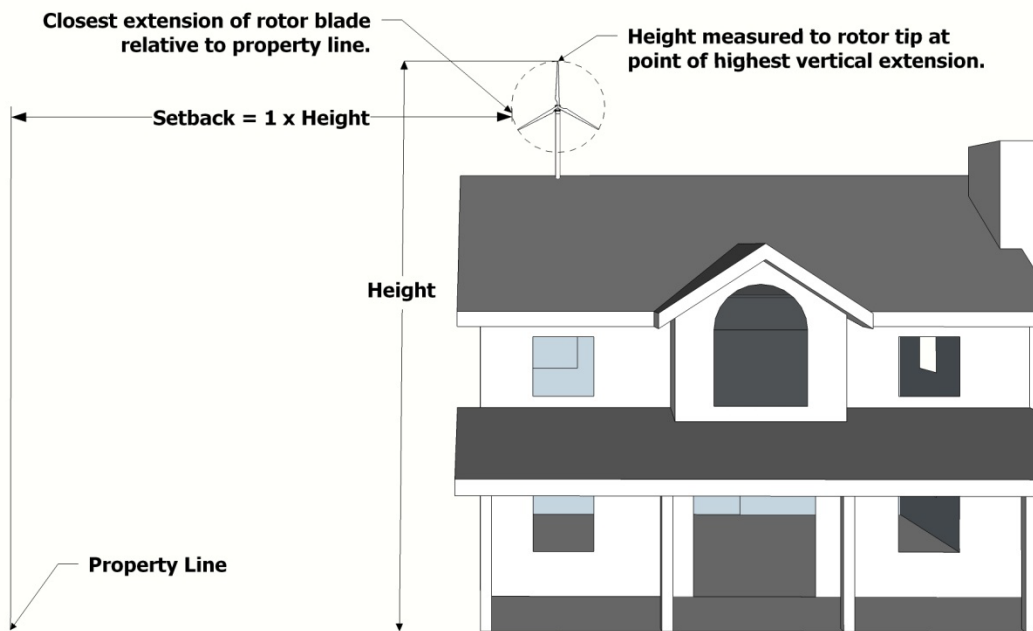


Figure 2: Building Mounted WECS Height and Setback

of any on-site service WECS. Such other terms and conditions may include, but are not limited to, the following:

- a. The preservation of existing trees and other existing vegetation not required to be removed for installation of a WECS.
- b. The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a WECS.
- c. Altering the location of the WECS to prevent impacts on neighboring properties, provided that all other requirements of this Section are met.
- d. Requiring a performance guarantee in the form of a bond or letter of credit, in favor of the Township, and conditioned upon the timely and faithful performance of all required conditions of the site plan approval, including but not limited to the timely and complete removal of a WECS, regulated under the terms of the section, when required. Such performance guarantee shall remain in effect during and after the operation of a WECS until its operations have ceased and it has been removed.

[AMENDED 1/20/2010]

SECTION 2.34 OUTDOOR BOILERS

The Zoning Administrator may approve an application and permit for an outdoor boiler (also known as outdoor wood boilers, outdoor furnaces, or hydronic heaters), provided that all of the following requirements are met:

- A. The stove/furnace shall be only for the purpose of heating a dwelling and/or accessory structure(s) on the same lot.
- B. Minimum lot area shall be two (2) acres.
- C. The outdoor boiler unit shall be a minimum of forty (40) feet from any other structure; however, a structure built and used strictly for sheltering wood or other approved fuel for the unit may be located no less than five (5) feet from the unit.
- D. The outdoor boiler unit shall be located a minimum of one hundred (100) feet from any property line.
- E. The unit shall not be located in the front yard.
- F. Other than woodpiles and other approved combustibles used for fuel, an area at least thirty (30) feet in diameter around the unit shall be free of ignitable vegetation and debris.
- H. The chimney shall be a minimum of ten (10) feet high, to a maximum of thirty-five (35) feet. Chimney guy wires, if necessary, shall be clearly visible at all heights below nine (9) feet.
- I. All outdoor boilers installed after the effective date of this Section shall comply, at minimum, with the Phase II emissions guidelines of the United States Environmental Protection Agency's (USEPA) Voluntary Program for Hydronic Heaters. Should the USEPA, the State of Michigan, or Berrien County adopt more restrictive emissions requirements, all outdoor boilers installed after the effective date of the new requirements shall comply with the more restrictive requirements. A copy of the manufacturer's certification of compliance with USEPA Phase II emissions guidelines shall be submitted as part of the application.
- J. A copy of the manufacturer's installation and operation instructions shall be submitted as part of the application. After approval and installation, the applicant shall provide a written statement

from the installer that the outdoor boiler was installed according to all manufacturer's instructions and any applicable Township, county, state or federal requirements.

- K. Only seasoned, dry and untreated wood and clean burning wood byproducts (such as wood pellets) may be used for fuel. Other biomass fuel materials may be used (such as corn cobs) provided that the unit is designed to burn such materials while meeting the emissions requirements stated in this Section.
- L. The outdoor boiler shall be operated according to the manufacturer's instructions as well as all applicable Township, county, state or federal requirements.

[AMENDED 2-15-12]

SECTION 2.35 TEMPORARY HARDSHIP HOUSING

- A. Notwithstanding any other provisions of this ordinance, the Planning Commission may issue a Temporary Hardship Housing Permit and approve the use of a manufactured home for a relative of the residing property owner upon a finding of physical hardship of the intended occupant and no other practical alternatives exist.
- B. A relative is determined to be a mother, father, daughter, son, father-in-law, mother-in-law, brother, sister, grandfather or grandmother of the property owner.
- C. Physical hardship is a condition in which an individual is incapable of taking care of himself or herself, as indicated by a physician's written statement of physical hardship. The applicant shall show proof of the occupant's physical hardship by providing a physician's written statement.
- D. If more than one person will occupy the manufactured home, approval must be obtained from the Planning Commission during the review of an initial permit, amendment to the permit or renewal of the permit.
- E. A Temporary Hardship Housing Permit shall be subject to the following conditions and requirements:
 - 1. The manufactured home may be located on any lot zoned to permit single-family dwellings.
 - 2. The principal dwelling shall be owner-occupied.
 - 3. The lot shall be of sufficient size to allow the manufactured home to comply with all applicable front, rear and side yard setbacks that apply to principal buildings. The manufactured home shall be separated from any existing building by a minimum of 10 feet.
 - 4. The manufactured home and method of installation shall meet the minimum 1976 HUD housing standards, building codes and any other applicable Township ordinance.
 - 5. The manufactured home shall be installed as if its use were permanent, including cement footing or piers set on concrete footings, skirting, water/well and sewer/septic hook-ups, landscaping and tie-downs.
 - 6. The manufactured home shall connect to existing municipal sewer where it is available and when required. The property owner will be billed for the additional residence. If the manufactured home cannot be connected to municipal sewer, an on-site septic system permit must be approved by the Berrien County Health Department.
- F. Upon approval by the Planning Commission, the Temporary Hardship Housing Permit may be valid for a period greater than one (1) year and the permit may be renewed annually at the first Planning Commission meeting of each calendar year upon a formal request by the applicant, prior

to permit expiration. Subsequent renewals shall be granted by the Planning Commission upon finding that the qualifying conditions continue to exist and conformance with the requirements of this section are maintained. Sufficient physician's evidence shall be required during review of each permit renewal application and an annual fee is required.

- G. Upon discovery by the Zoning Administrator that the relative no longer occupies the approved manufactured home, or if it is discovered that the property owner no longer resides within the principal dwelling, or if it is found that the relative's physical hardship ceases to exist, the Temporary Hardship Housing Permit shall be revoked. Any other violations of this section shall be enforced in accordance with Section 15.3 A.
- H. The manufactured home must be removed from the property within three (3) months of permit revocation or expiration.
- I. Issuance of a Temporary Hardship Housing Permit shall not establish a nonconforming structure, per Section 2.1 D, Nonconforming Buildings and Structures. A manufactured home permitted and established in accordance with this section shall not be continued beyond the revocation or expiration of the permit.

[AMENDED 4-20-16]

**CHAPTER 3
ZONING DISTRICTS - GENERAL**

SECTION 3.1 DISTRICTS ESTABLISHED

For the purposes of this Ordinance, Weesaw Township is hereby divided into the following zoning Districts:

CURRENT DISTRICT DESIGNATION		PREVIOUS ORDINANCE DESIGNATION
A-1	Rural-Agricultural Residential	Agricultural-Residential
R-2	Low/Medium Density Residential	
R-3	Manufactured Home Park	N/A
C-1	Community Commercial	Commercial
C-2	Village Commercial	Commercial
I-1	Light Industrial	Industrial
PUD	Planned Unit Development	N/A
F-1	Flood Plain	

[AMENDED 1/20/2010]

SECTION 3.2 DISTRICT BOUNDARIES

A. Boundaries

The boundaries of the districts listed in Section 3.1 are hereby established as shown on the Weesaw Township Zoning Ordinance Map, which is part of this Ordinance.

B. Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of the various Districts as shown on the Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, roads, highways, or alleys shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines or Township limits shall be construed as following such lot lines or Township limits.
3. Boundaries indicated as following railroad lines shall be construed to be the midpoint between the main tracks.
4. Boundaries indicated as parallel to or extensions of features indicated in Section 3.2, B, 1-3, shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
5. Where physical or natural features existing on the ground differ from those shown on the Zoning Map, or in other circumstances not covered by this Section, the Zoning Board of Appeals shall interpret the district boundaries.
6. For the sake of map clarity, various districts may not cover public rights-of-way. It is intended that such district boundaries extend to the center of any public right-of-way.

SECTION 3.3 ZONING OF VACATED AREAS

Whenever all or part of a street, alley or other public way is vacated, it shall automatically become a part of the District to which it attaches. If a vacated area is bordered by two (2) different Districts, the area is divided along a line half way between them according to the adjacent zone, unless the Township Board shall otherwise designate.

CHAPTER 4
A-1 RURAL-AGRICULTURAL RESIDENTIAL DISTRICT

SECTION 4.1 INTENT

This District is intended to provide a low intensity, rural environment which preserves those natural features that are important to the character of Weesaw Township. General farming, large-lot residential, some institutions, and large open space uses are permitted in this District. Agricultural land is determined to be an important, irreplaceable, and irretrievable natural resource. While it is recognized that ultimately some marginal agricultural lands in the Township may be needed for other forms of development, the area containing the designated agricultural land in the Township should be preserved. It is the further intent to minimize undue development pressures upon those land owners who operate farms and wish to continue doing so. This agricultural district is consistent with the agricultural land designation as described in the Township Plan.

SECTION 4.2 PERMITTED USES

No land and/or buildings in the A-1 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. Agriculture, including farms for both general and specialized farming, together with farm dwellings and other installations used and operated as part of the farm, but not including intensive livestock operations or agribusinesses.
- B. Greenhouses and nurseries if not used for conducting a retail business on the premises.
- C. Roadside stands for the display and sale of products grown on the property; provided that off-street parking and access to such parking shall be provided on the property and no hazardous traffic condition shall result from such activity.
- D. Single-family detached dwellings.
- E. Family day care homes.
- F. State licensed residential family care facilities.
- G. Public parks, playgrounds, and other public uses of an open space recreational character.
- H. Accessory buildings, structures, and uses.
- I. Home occupations.

SECTION 4.3 SPECIAL LAND USES

No land and/or buildings in the A-1 District may be used, except for the following purposes when approved in accordance with the requirements of Chapter 13:

- A. Utility and public service buildings, without storage yards.
- B. Commercial campgrounds.
- C. Private non-commercial and public recreation areas or community recreation centers.
- D. Churches (including schools and day care centers).
- E. Golf courses or country clubs.
- F. Hunt clubs and shooting clubs.
- G. K-12 schools provided such schools are not operated as commercial enterprises.
- H. Bed and breakfast establishments.
- I. Cemeteries.
- J. Kennels.
- K. Private stables.
- L. Airports and landing fields.

- M. Municipal buildings.
- N. Wireless communication towers and radio and television broadcast towers.
- O. Amusement parks and race tracks.
- P. Sanitary landfill facilities.
- Q. Commercial removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.
- R. Group day care homes.
- S. Agribusinesses.
- T. Greenhouses and nurseries operated as a retail business.
- U. Storage Buildings.

SECTION 4.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required, as applicable, in accordance with Chapter 12, Section 12.1.
- B. Parking is required in accordance with Chapter 12, Section 12.2.
- C. Signs are permitted in accordance with the requirements of Chapter 12, Section 12.3.
- D. Setbacks, height, area, and lot dimension requirements shall be met as noted on the chart in District Regulations, Chapter 11.

CHAPTER 5
R-2 LOW/MEDIUM DENSITY RESIDENTIAL

SECTION 5.1 INTENT

This District is intended to provide low and medium density, single family residential living environment and to foster stable, high quality neighborhoods consistent with Weesaw Township’s small town character. At the same time the regulations for this district recognize the need to preserve existing housing stock, allow infill development within older neighborhoods, and provide housing that is affordable for the present and future residents of Weesaw Township. Non-residential uses are only allowed to the extent that they serve to further the creation of stable residential neighborhoods.

SECTION 5.2 PERMITTED USES

No land and/or buildings in the R-2 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. Single-family detached dwellings.
- B. Family day care homes.
- C. State licensed residential family care facilities.
- D. Public parks, playgrounds, and other public uses of an open space recreational character.
- E. Accessory buildings, structures, and uses.
- F. Home occupations.

SECTION 5.3 SPECIAL LAND USES

No land and/or buildings in the R-2 District may be used, except for the following purposes when approved in accordance with the requirements of Chapter 13:

- A. Utility and public service buildings, without storage yards.
- B. Private non-commercial and public recreation areas or community recreation centers.
- C. Churches (including schools and day care centers).
- D. Golf courses or country clubs.
- E. K-12 schools provided such schools are not operated as commercial enterprises.
- F. Bed and breakfast establishments.
- G. Cemeteries.
- H. Two-family dwellings, including conversions of existing single family detached dwellings to two family dwellings, provided all applicable requirements for living area, lot size, and setbacks are met.
- I. Private storage building as a principal use.
- J. Commercial removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.
- K. Multiple Family Units.
- L. Housing for the elderly.
- M. Child care center.
- N. Raising and keeping of farm animals not considered household pets.
- O. Group day care homes.

SECTION 5.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required, as applicable, in accordance with Chapter 12, Section 12.1.
- B. Parking is required in accordance with Chapter 12, Section 12.2.
- C. Signs are permitted in accordance with the requirements of Chapter 12, Section 12.3.
- D. Setbacks, height, area, and lot dimension requirements shall be met as noted on the chart in District Regulations, Chapter 11.

CHAPTER 6
R-3 MANUFACTURED HOME PARK DISTRICT

SECTION 6.1 INTENT

Consistent with the Township's goal to provide a mix of housing styles, types, and densities to accommodate the residential needs of all groups, the Manufactured Home Park District is intended to provide regulations for manufactured home residential developments to permit additional variety in housing opportunities and choices.

SECTION 6.2 PERMITTED USES

No land and/or buildings in the R-3 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. Manufactured homes located in a state-licensed manufactured home park.
- B. Manufactured home parks in accordance with the requirements of Section 6.5.
- C. Family day care homes.
- D. State licensed residential family care facilities.
- E. Accessory buildings, structures, and uses.
- F. Home occupations.

SECTION 6.3 SPECIAL LAND USES

No land and/or buildings in the R-3 District shall be used, except for the following purposes when approved in accordance with the requirements of Chapter 13.

- A. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- B. State licensed residential group home care facilities.
- C. Group day care homes.
- D. Commercial removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.

SECTION 6.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required, as applicable, in accordance with Chapter 12, Section 12.1.
- B. Parking is required in accordance with Chapter 12, Section 12.2.
- C. Signs are permitted in accordance with the requirements of Chapter 12, Section 12.3.

SECTION 6.5 LICENSED MANUFACTURED HOME PARKS

- A. All manufactured home parks shall comply with the applicable requirements of Public Act 96 of the Michigan Public Acts of 1987, as amended.
- B. The parking of more than one (1) manufactured home on a single parcel of land shall be illegal in Weesaw Township, irrespective of the requirements of any other ordinance of Weesaw Township, unless such parcel or parcels of land shall have been approved as a licensed manufactured home park under the provisions of this Chapter.

- C. All applications to establish a Manufactured Home Park Zoning District must be approved by the Township Board, upon the recommendation of the Planning Commission, in accordance with the provisions of this Ordinance.
- D. The business of selling new and/or used manufactured homes as a commercial operation in connection with the operation of a manufactured home development is prohibited. New or used manufactured homes located on lots within the manufactured home park may be sold by a licensed dealer and/or broker. This section shall not prohibit the sale of a new or used manufactured home by a resident of the manufactured home development provided the development permits the sale.

CHAPTER 7
C-1 GENERAL COMMERCIAL DISTRICT

SECTION 7.1 INTENT

This District is intended to accommodate uses which meet the general community-wide retail and service needs of the residents of Weesaw Township and other nearby communities. It is the intention to promote the concentration of such uses in planned areas of the community, rather than in a random or linear pattern.

SECTION 7.2 PERMITTED USES

No land and/or buildings in the C-1 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. Any retail business whose principal activity is the sale of merchandise within an enclosed building.
- B. Personal and business service establishments including barbers, electronics repair, printing, publishing, photo reproduction, blue-printing, or related trades or arts.
- C. Assembly buildings including dance pavilions, auditoriums, churches, and private clubs.
- D. Indoor recreational and entertainment facilities, such as theaters, bowling lanes, billiard parlors, skating rinks, and similar uses as determined by the Zoning Administrator.
- E. Commercial schools including, but not limited to, dance, music, trade, martial arts.
- F. Restaurants, clubs and other drinking establishments which provide food or beverage for consumption on the premises; excluding drive-ins.
- G. Health and physical fitness salons.
- H. Municipal and public utility buildings and installations.

SECTION 7.3 SPECIAL LAND USES

No land and/or buildings in the C-1 District shall be used, except for the following purposes when approved in accordance with the requirements of Chapter 13.

- A. Offices and showrooms of plumbers, electricians, decorators, or similar trades.
- B. Vehicle service stations.
- C. Vehicle repair establishments.
- D. Vehicle wash establishments.
- E. Drive-in establishments including restaurants, banks, dry cleaning pick-up stations, pharmacies, and other similar uses.
- F. Open air businesses.
- G. Mortuaries.
- H. Veterinary hospitals and kennels.
- I. Child care centers.
- J. Wireless communication towers and radio and television broadcast towers.
- K. Outdoor display areas.
- L. Building supply and equipment establishments.
- M. Adult bookstores, adult live entertainment theaters, adult motion picture theaters, and massage parlors.
- N. Outdoor commercial recreation such as mini-golf, go-cart tracks, golf driving ranges, and similar uses as determined by the Zoning Administrator.
- O. Commercial storage warehouse.
- P. Commercial removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.

SECTION 7.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required, as applicable, in accordance with Chapter 12, Section 12.1.
- B. Parking is required in accordance with Chapter 12, Section 12.2.
- C. Signs are permitted in accordance with the requirements of Chapter 12, Section 12.3.
- D. Setbacks, height, area, and lot dimension requirements shall be met as noted on the chart in District Regulations, Chapter 11.

**CHAPTER 7A
C-2 VILLAGE COMMERCIAL DISTRICT**

SECTION 7A.1 INTENT

This District is intended to recognize the historic character of the downtown New Troy area and provide for businesses and services that serve the greater New Troy area. To achieve this intent, uses, development requirements and other regulations allow and encourage development appropriate to a traditional downtown. Because of the purposes stated above, this district is not intended to be located outside of the commercial neighborhood within the area historically considered to be New Troy.

SECTION 7A.2 PERMITTED USES

- A. Qualifying Conditions: No building used for a permitted use in the C-2 District shall have a gross ground floor area greater than six thousand five hundred (6,500) square feet.

- B. No land and/or buildings in the C-2 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:
 - 1. Any retail business whose principal activity is the sale of merchandise within an enclosed building.
 - 2. Personal and business service establishments including barbers, electronics repair, printing, publishing, photo reproduction, blue-printing, or related trades or arts.
 - 3. Indoor recreational and entertainment facilities, such as billiard parlors, skating rinks, and similar uses as determined by the Zoning Administrator.
 - 4. Commercial schools including, but not limited to, dance, music, trade, martial arts.
 - 5. Restaurants, clubs and other drinking establishments which provide food or beverage for consumption on the premises; excluding drive-ins and drive-through uses.
 - 6. Health and physical fitness salons.
 - 7. Municipal and public utility buildings and installations.
 - 8. Professional offices and services, such as insurance agencies, legal offices, and financial institutions, not including drive-through uses.
 - 9. Dwelling units, located above the first floor of a building, or located on the first floor, provided that the first thirty-five (35) feet of the storefront is dedicated to an allowed non-residential use.

SECTION 7A.3 SPECIAL LAND USES

No land and/or buildings in the C-2 District shall be used, except for the following purposes when approved in accordance with the requirements of Chapter 13.

- A. Any permitted use listed in Section 7A.2 in a building larger than six-thousand five hundred (6,500) square feet, but in no case larger than fifteen thousand (15,000) square feet.
- B. Offices and showrooms of plumbers, electricians, decorators, or similar trades.
- C. Vehicle repair establishments.
- D. Vehicle wash establishments.
- E. Mortuaries.
- F. Child care centers.
- G. Outdoor display areas.

SECTION 7A.4 EXISTING SINGLE FAMILY RESIDENTIAL USES

Any principal single family residential use established and constructed at the time of adoption of the amendment to the Zoning Ordinance, where there is no nonresidential use (other than a permitted home occupation), is considered to be permitted use in this district. Any such residential use shall be subject to the site development and setback requirements of the R-2 District, and, if a nonconforming lot of record, the requirements of Section 2.1.B. Should the use of the lot be changed to a permitted or special land use allowed in the C-2 District, the prior single family residential use may not be re-established.

SECTION 7A.5 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required, as applicable, in accordance with Chapter 12, Section 12.1.
- B. Parking is required in accordance with Chapter 12, Section 12.2.
- C. Signs are permitted in accordance with the requirements of Chapter 12, Section 12.3.
- D. Setbacks, height, area, and lot dimension requirements shall be met as noted on the chart in District Regulations, Chapter 11.

[AMENDED 1/20/2010]

CHAPTER 8
I-1 INDUSTRIAL DISTRICT

SECTION 8.1 INTENT

This District is intended to accommodate wholesale, warehousing, manufacturing, storage, and other industrial-related uses.

SECTION 8.2 PERMITTED USES

No land and/or buildings in the I-1 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. Office buildings for executive, administrative, professional, accounting, drafting, and other similar professional activities, as determined by the Zoning Administrator.
- B. Banks, credit unions, savings and loan associations, and other similar uses as determined by the Zoning Administrator, including those with drive-through facilities.
- C. Research and development facilities, including production activities.
- D. Wholesale establishments.
- E. The manufacture, compounding, processing, packaging, warehousing, or treatment of such products as foodstuffs (excepting slaughterhouses or other similar uses), cosmetics, pharmaceuticals, pottery or other ceramic products, monuments, glass products, musical instruments, toys, furniture, molded rubber or plastics products, electrical appliances, electronic instruments, signs, light sheet metal products, hardware, tool, die, gauge, and machine shops, excluding stamping operations.
- F. Laboratories (experimental, film, research, or testing).
- G. Central dry-cleaning and laundry establishments performing cleaning operations on the premises, provided a customer counter may be permitted as an accessory use.
- H. Trade or industrial schools.
- I. Utility and public service buildings, including storage yards.
- J. Contractor's showrooms and storage yards.
- K. Accessory buildings, structures, and uses.
- L. All permitted uses (including primary, accessory and special uses) allowed in the A-1 Rural Agriculture Residential District.

SECTION 8.3 SPECIAL LAND USES

No land and/or buildings in the I-1 District shall be used, except for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 13.

- A. Vehicle repair.
- B. Lumber and planing mills.
- C. Metal plating, buffing, and polishing.
- D. Commercial storage warehouses.
- E. The manufacture, compounding, processing, packaging, or treatment of products requiring stamping or punch press operations.
- F. Wood chip processing.
- G. Recycling centers.
- H. Adult bookstores, adult live entertainment theaters, adult motion picture theaters, and massage parlors.
- I. Junk yards.

- J. Truck terminals.
- K. Outdoor storage, display area, and sale of farm implements and commercial construction equipment.
- L. Manufacture of corrosive acid or alkali, cement, lime, gypsum, or plaster of Paris.
- M. Production, refining, or storage of petroleum or other flammable liquids.
- N. Municipal water and wastewater treatment facilities.
- O. Dog kennels.
- P. Veterinary hospitals and clinics.
- Q. Child care centers.
- R. Commercial removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.

SECTION 8.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required, as applicable, in accordance with Chapter 12, Section 12.1.
- B. Parking is required in accordance with Chapter 12, Section 12.2.
- C. Signs are permitted in accordance with the requirements of Chapter 12, Section 12.3.
- D. Setbacks, height, area, and lot dimension requirements shall be met as noted on the chart in District Regulations, Chapter 11.
- E. All industrial activities shall be conducted wholly within a completely enclosed building, except for loading and unloading operations and designated outdoor storage areas meeting all applicable requirements for location and screening.

**CHAPTER 9
F-1 FLOOD PLAIN DISTRICT**

SECTION 9.1 PURPOSE

This District is intended primarily to protect those undeveloped areas of Weesaw Township which are subject to predictable flooding in the flood plain area of the Galien River or its tributaries that the reservoir capacity will not be reduced or impede, retard, accelerate or change the direction of flow or carrying capacity of the river valley or to otherwise increase the possibility of flood. The requirements of this Chapter, while permitting reasonable use of properties within the flood plain will help protect human life, prevent or minimize material and economic losses and reduce the cost to the public in time of emergency through public aid or relief efforts occasioned by the unwise occupancy of such flood areas.

SECTION 9.2 DELINEATION OF THE FLOOD HAZARD OVERLAY ZONE

- A. The flood hazard area zone shall overlay existing zoning districts delineated on the official Weesaw Township of Zoning Map. The boundaries of the flood hazard area zone shall coincide with the boundaries of the areas indicated as within the limits of the 100-year flood in the Flood Insurance Study prepared by the Federal Emergency Management Agency, with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps. Within the flood hazard area zone a regulatory floodway shall be designated. The boundaries of the regulatory floodway shall coincide with the floodway boundaries indicated on the Flood Boundary and Floodway Map. The Study and accompanying maps are adopted by reference, appended, and declared to be part of this Ordinance. The term flood hazard area as used in this Ordinance shall mean the flood hazard area zone and the term floodway shall mean the designated regulatory floodway.
- B. Where there are disputes as to the location of a flood hazard area zone boundary, the Zoning Board of Appeals shall resolve the dispute.
- C. In addition to other requirements of this Ordinance applicable to development in the underlying zoning district, compliance with the requirements of this Chapter shall be necessary for all development occurring within the flood hazard area zone.

SECTION 9.3 PERMITTED USES

Notwithstanding any other provisions of this Ordinance, land and/or buildings in the F-1 District may be used for the following purposes as Permitted Uses:

- A. Open space uses such as farms, truck gardens, nurseries, parks, playgrounds, golf courses, nature preserves, bridle trails, natural trails, and recreation, provided no alteration is made to the existing level of the flood plain or erected structure which may interfere with the flow of the river or flood plain capacity.
- B. Industrial or commercial accessory use areas, such as loading and parking areas, and similar uses.
- C. Airport landing, taxiing, and parking areas.
- D. Accessory residential uses such as lawn, gardens, parking areas, and play areas.

SECTION 9.4 SPECIAL LAND USES

Land and/or buildings in the F-1 District may be used for the following purposes following review by the Planning Commission as a Special Land Use as regulated by Chapter 13:

- A. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.
- B. Marinas, docks, and piers.

SECTION 9.5 DATA SUBMISSION

Prior to the issuance of building permit for structures on or within one-hundred (100) feet of flood plain areas, the Zoning Administrator shall require the applicant for such permit to submit an approved permit by the Michigan Department of Environmental Quality, topographic data, engineering studies, proposed site plan and/or other similar data needed to determine the possible effects of flooding on a proposed structure and/or the effect of the structure on the flow of water. All such required data shall be prepared by a registered professional civil engineer.

SECTION 9.6 TOWNSHIP LIABILITY

Weesaw Township shall incur no liability whatsoever by permitting any use of a building within the flood plain within the Township.

SECTION 9.7 GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION

- A. Development within a flood hazard area, including the erection of structures as permitted by this Chapter, shall not occur except upon issuance of a zoning permit in accordance with the requirements of this Ordinance and the following standards:
 - 1. The requirements of this Chapter shall be met.
 - 2. The requirements of the underlying zoning district and applicable general provisions of this Ordinance shall be met;
 - 3. All necessary development permits shall have been issued by appropriate local, state, and federal authorities, including a flood plain permit, approval, or letter of No Authority from the Michigan Department of Environmental Quality under authority of Act 245, of the Public Acts of 1929, as amended. Where a development permit cannot be issued prior to the issuance of a zoning permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

- B. The use pattern and structure proposed to accomplish said use shall be so designed as not to reduce the water impoundment capacity of the flood plain or significantly change the volume or speed of the flow of water. Specific base flood elevation standards:
 - 1. On the basis of the most recent available base flood elevation data all new construction and substantial improvements shall have the lowest floor, including basements, elevated at least one (1) foot above the flood level; or for nonresidential structures, be constructed such that at or below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that these standards are met and that the flood proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with the base flood in the location of the structure. Such certification shall be submitted as provided in this Ordinance and shall indicate the elevation to which the structure is flood proofed
 - 2. Flood hazard data available from federal, state, or other sources shall be reasonably utilized in meeting the standards of this Chapter. The most recent flood elevation data received from the Federal Insurance Administration shall take precedence over data from other sources.

- C. All new construction and substantial improvements within a flood hazard area, shall:

1. Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
 2. Be constructed with materials and utility equipment resistant to flood damage; and
 3. Be constructed by methods and practices that minimize flood damage.
- D. All new and replacement water supply systems shall minimize or eliminate infiltration of flood waters into the systems.
- E. All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of flood waters into the systems and discharges from systems into flood waters. On site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
- F. All public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.
- G. Adequate drainage shall be provided to reduce exposure to flood hazards.
- H. The flood carrying capacity of any altered or relocated watercourses not subject to state or federal regulations designed to ensure flood carrying capacity shall be maintained.

CHAPTER 10
PUD - PLANNED UNIT DEVELOPMENT DISTRICT

SECTION 10.1 INTENT

Planned Unit Developments in Weesaw Township may be established as distinct zoning districts when approved by the Township Board in accordance with the procedures specified herein. It is the intent of this District to provide for flexibility in the regulation of land development; to encourage innovation in land use and variety in design, layout, and type of structures; to achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; to encourage useful open space; and to create better living, working, and shopping environments. In order to accomplish these objectives, this Chapter permits the relaxation of the conventional requirements found in other Zoning Districts. The use of land and the construction and use of buildings and other structures as Planned Unit Development shall be in conformance with the procedures, standards, requirements, and conditions for eligibility contained in this Chapter.

SECTION 10.2 QUALIFYING CONDITIONS

Any development which fails to meet the following qualifying conditions, at a minimum, shall not be considered for the PUD District:

- A. The PUD site shall be not less than ten (10) acres in area. If the PUD is to contain a mixture of residential and non-residential uses, the minimum required area shall be twenty (20) acres. Recreational amenities such as golf courses and health clubs, and accessory commercial activities such as club houses and pro shops, shall not be considered non-residential uses for purposes of this Section.
- B. The tract of land for which a PUD application is received must be either in single ownership or the subject of an application filed jointly by the owners of all properties.
- C. The proposed uses and densities of the PUD must be consistent with the Weesaw Township Master Plan for the subject property, unless otherwise noted in this Chapter.
- D. Minimum lot sizes for each principal use within a PUD shall be at least one (1) acre with a minimum width of one hundred fifty (150) feet, unless developed under the cluster provision of section 10.4.

SECTION 10.3 PERMITTED USES

Any use permitted by right or special approval in any District shall be permitted within a PUD, subject to compliance with the qualifying conditions and other applicable regulations of this Chapter, unless otherwise noted in this Chapter.

SECTION 10.4 RESIDENTIAL CLUSTER DEVELOPMENT

The PUD may be approved as a residential cluster development in accordance with the following regulations. Residential cluster developments are not intended simply as a means to reduce lot sizes. The intent of the regulations is to foster the preservation of significant natural features, large open spaces, or active agricultural land that would otherwise be developed.

1. Qualifying Conditions

In addition to the provisions of Section 10.2 and all other standards within this Chapter, the application for a cluster development must demonstrate that the property proposed for such cluster development contains unique site conditions, significant natural features, large

5. Anticipated start and completion of construction.
 6. Location, type, and size of areas to be dedicated for common open space.
- D. Twelve (12) copies of a preliminary development plan. If the PUD is to be developed in phases, the preliminary development plan shall show all phases. The preliminary plan shall contain the following:
1. Name of development, applicant's name, name and address of firm and individual who prepared the plan, scale, and north arrow.
 2. Property lines, dimensions of all property lines, and size of the PUD (and individual phases) in acres.
 3. Existing zoning and land use of all abutting properties.
 4. Existing natural features on the site including water, stands of trees, drainage ways, flood plains, wetlands, steep slopes, and similar features.
 5. Existing buildings on the site.
 6. Proposed uses and their approximate locations.
 7. Right-of-way and pavement edges of existing streets abutting the PUD.
 8. Approximate locations of proposed access drives and streets within the PUD.
 9. Proposed method of providing water, sanitary sewer, and stormwater drainage facilities.
 10. Layout and typical dimensions of proposed lots.
 11. Approximate phases of development.
 12. Proposed residential density by area or phase.

SECTION 10.7 NOTICE AND PUBLIC HEARING FOR PUD

- A. Upon receipt of an application for PUD approval, the Zoning Administrator shall cause notice to be given, in accordance with the Zoning Act. The notice shall:
1. Describe the nature of the proposed PUD.
 2. Describe the property which is the subject of the PUD application, by both legal description and street address. Street addresses do not need to be created and listed if none currently exist.
 3. State the time, date, and place of the public hearing.
 4. State when and where written comments will be received concerning the application.
- B. Following notice, the Planning Commission shall hold a public hearing on the proposed PUD, for the purpose of receiving public comment on the application.

SECTION 10.8 PLANNING COMMISSION RECOMMENDATION

Following the public hearing, the Planning Commission shall review the PUD request and preliminary development plan based on the conformance with the Township Master Plan, compatibility with surrounding uses, and consistency with the intent and qualifying conditions of this Chapter; and shall make a recommendation to the Township Board to approve, approve with conditions, or deny the PUD zoning. In its recommendation to the Board, the Planning Commission shall include the reasons for such recommendation, specifically citing appropriate standards and sections of the Ordinance and identify those specific conditions, if any, it considers necessary. Such recommendation shall also be forwarded to Berrien County in conformance with the requirements of the Zoning Act.

SECTION 10.9 TOWNSHIP BOARD ACTION

After receiving the recommendation of the Township and County and applying the standards of Section 10.12, the Township Board shall review the application package, preliminary development plan, the record of the Planning Commission proceedings, and the recommendation. The Board shall then make its findings as to approval, approval with conditions, or denial. An approval with conditions shall not be considered final until the applicant submits a written acceptance of the conditions and all necessary revisions to the final development plan to the Township Board.

SECTION 10.10 FINAL DEVELOPMENT PLAN APPLICATION

Within twelve (12) months of the Township Board’s approval of the PUD district and the preliminary development plan, the applicant shall submit a request for final PUD approval. Such application shall consist of the following.

- A. A completed application form, supplied by the Zoning Administrator.
- B. Payment of a fee, as established by the Township Board.
- C. A written response to the findings, review comments, and conditions, if any, from the Planning Commission's review of the preliminary development plan and a narrative explanation of the changes made to the plan in response to those items.
- D. A site plan containing all of the information required in Section 12.1.C.2. For developments consisting of three (3) or more phases, a plan meeting the requirements of 10.5.D may be submitted for the overall PUD and a detailed plan as required for final development plan may be submitted for the first phase. Each subsequent phase shall be reviewed in the same manner.

SECTION 10.11 PLANNING COMMISSION REVIEW OF FINAL DEVELOPMENT PLAN

- A. The Planning Commission shall review the final development plan in relation to its conformance with the preliminary development plan and the conditions, if any, of the PUD district approval. If it is determined that the final plan is not in substantial conformance to the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with the procedures of Sections 10.7-10.9 of this Chapter.
- B. If the final development plan is consistent with the approved preliminary development plan, the Planning Commission shall review the final plan in accordance with the criteria of Section 10.12.
- C. The Planning Commission shall prepare a record of its findings and shall approve, approve with conditions, or deny the final development plan.
- D. The decision of the Planning Commission may be appealed to the Township Board which shall review the record of the proceedings, along with all materials submitted, and shall make its decision in accordance with the standards of Section 10.12.

SECTION 10.12 STANDARDS FOR APPROVAL

A PUD shall be approved only if it complies with each of the following standards:

- A. The proposed PUD complies with all qualifying conditions of Section 10.2.
- B. The uses to be conducted within the proposed PUD are consistent with the Township’s Master Plan.
- C. The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development.
- D. The proposed PUD will not contain uses or conditions of use that would be injurious to the public health, safety, or welfare of the community.

- E. The proposed project is consistent with the spirit and intent of the PUD District, as described in Section 10.1 and represents a development opportunity for the community that could not be achieved through conventional zoning.
- F. The proposed PUD meets all the review standards of Section 12.1.D.

SECTION 10.13 PUD AGREEMENT

Prior to issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the Township in recordable form, setting forth the applicant’s obligations with respect to the PUD. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the approval by the Township Board. The agreement shall also establish the remedies of the Township in the event of default by the applicant in carrying out the PUD, and shall be binding on all successors in interest to the applicant. All documents shall be executed and recorded in the office of the Berrien County Register of Deeds.

SECTION 10.14 CHANGES TO AN APPROVED PUD

Changes to an approved PUD shall be permitted only under the following circumstances:

- A. The holder of an approved PUD final development plan shall notify the Zoning Administrator of any desired change to the approved PUD.
- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
 - 1. Reduction of the size of any building and/or sign.
 - 2. Movement of buildings and/or signs by no more than ten (10) feet.
 - 3. Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent.
 - 4. Changes in floor plans, of up to five (5) percent of the total floor area, which do not alter the character of the use or increase the amount of required parking.
 - 5. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - 6. Changes required or requested by the Township, Berrien County, or other State or Federal regulatory agency in order to conform to other laws or regulations.
- C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the PUD and shall be processed in the same manner as the original PUD application.

SECTION 10.15 TIME LIMIT FOR APPROVED PUD DISTRICT

Each development shall be under construction within one (1) year after the date of approval of the PUD final development plan, except as noted in this Section.

- A. The Township Board may grant one (1) extension of up to an additional one (1) year period if the applicant applies for such extension prior to the date of the expiration of the PUD and provided that:
 - 1. The applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and

2. The PUD requirements and standards, including those of the Zoning Ordinance and Master Plan, which are reasonably related to the development, have not changed.
- B. Should neither of the provisions of Section 10.14.A be fulfilled, or an extension has expired without construction underway, the PUD approval shall be null and void.

**CHAPTER 11
DISTRICT REGULATIONS**

SECTION 11.1 SCHEDULE OF REGULATIONS

Unless expressly specified otherwise elsewhere in this Ordinance, all lots, uses, structures and buildings shall conform to the Schedule of Regulations and the accompanying footnotes shown on the following pages. No lot shall be created which does not meet the following applicable requirements.

SCHEDULE OF DISTRICT REGULATIONS*								
DISTRICTS	AREA (a)	WIDTH (ft.)	YARD SETBACKS (ft.)(b)			HEIGHT		COVERAGE (%)
			Front	Side (each)	Rear	Feet	Stories	
A-1 Rural-Agricultural Residential	1 acre minimum	125	50	30	25	35	2½	20
R-2 Low/Medium Density Residential	1 acre(c, d)	165(c, d)	30(d)	15(d)	25(d)	35	2½	35
R-3 Manufactured Home Park	See Chapter 6							
C-1 Community Commercial	20,000 square feet	80	70(f)	(e)	25	35	2	None
C-2 Village Commercial	7,800	66	0	0 (g)	20 (g)	35	2	None
I-1 Light Industrial	1 acre	100	40(f)	15(e)	40	40	2	None
F-1 Flood Plain	See Chapter 9							
PUD Planned Unit Development	See Chapter 10							

[AMENDED 1/20/2010; 4/20/16]

*Footnotes are an integral part of these District Regulations and should be read in conjunction with the above schedule.

SECTION 11.2 FOOTNOTES TO DISTRICT REGULATIONS

(a) All dwellings shall contain a minimum floor area in accordance with the following table:

single family	800 sq. ft. with at least 600 sq. ft. on the ground floor	
two-family	750 sq. ft. with at least 400 sq. ft. on the ground floor	
multi-family	1 bedroom	500 sq. ft.
	2 bedroom	600 sq. ft.
	3 bedroom	750 sq. ft.
	4 bedroom	900 sq. ft.

- (b) Where a rear yard abuts the side yard of an adjacent lot, the side yard on the street side shall meet the minimum front yard setback requirements.
- (c) See Section 2.1. [AMENDED 1/20/2010]
- (d) Multiple family dwellings shall have a minimum lot size of one (1) acre and be served by public water and sanitary sewer facilities. A maximum of four (4) dwelling units per net acre shall be permitted. Net acreage shall be the total site area, exclusive of any dedicated public right-of-way or private easement for either interior or abutting streets. No building shall exceed an overall length of one hundred eighty (180) feet. There shall be a minimum distance between ends of contiguous buildings equal to the height of the taller building or twenty five (25) feet, whichever is greater. In no case shall the minimum required setback be less than the height of the building.
- (e) Where a side or rear yard abuts a Residential District, a buffer shall be provided in accordance with Section 2.16.
- (f) The first twenty (20) feet of the required front yard shall not be used for parking or aisles and shall be visually unobstructed.
- (g) Where land in the C-2 District abuts a residential district, the side yard and rear yards shall be increased to fifteen (15) feet and thirty (30) feet, respectively. [AMENDED 1/20/2010]

CHAPTER 12
SITE DEVELOPMENT REQUIREMENTS

SECTION 12.1 SITE PLAN REVIEW

A. Purpose

The purpose of this Chapter is to consider and evaluate the applicant's planned objectives in the utilization of land and to ensure compliance with the regulations of this Zoning Ordinance.

B. Uses Subject to Site Plan Review

1. A Building Permit for any proposed use or building or any other improvement requiring a site plan shall not be issued until a Site Plan has been reviewed and approved under the following procedure:

a. The following uses shall be subject to Site Plan Review in accordance with the provisions of this Section.

(1) All permitted uses within the R-2, R-3, C-1, C-2 and I-1 Districts, except the following:

- (a) Single family dwellings
- (b) Temporary buildings and uses
- (c) Accessory uses or structures; however, Wind Energy Conversion Systems (WECS) shall be subject to site plan review, pursuant to Section 2.33. [AMENDED 1/20/2010]
- (d) Home occupations

(2) Special Land Uses in any zone district.

(3) Site condominiums in any district.

(4) Planned Unit Developments.

(5) Any development or land division involving five (5) or more lots

(6) Open Space Preservation developments

b. All site plans not reviewed under Section 12.1.B.1.a (1)-(5), shall be subject to review by the Zoning Administrator. Such review shall be limited to ensuring that the proposed use conforms to the applicable setbacks, yards, parking, and other specific Zoning Ordinance requirements.

C. Application and Review Procedures

1. Application Procedures

a. An application for Site Plan Review shall be submitted at least thirty (30) days prior to the next scheduled Planning Commission meeting through the Zoning Administrator, who will review the application materials to ensure that the requirements of Section 12.1C.1.c and 12.1.C.2, are met, then transmit it to the Planning Commission.

- b. Review comments shall be submitted by such departments and consultants to the Planning Commission for consideration prior to the meeting at which the request is to be considered.
- c. An application for Site Plan Review shall consist of the following:
 - (1) A completed application form, as provided by the Township.
 - (2) Five (5) copies of the Site Plan.
 - (3) Payment of a fee, in accordance with a fee schedule, as determined by Township Board resolution.
 - (4) A legal description, including the permanent parcel number, of the subject property and a boundary survey map.
 - (5) Other materials as may be required by this Section or the Planning Commission.
- d. The Planning Commission may waive specific items required in subsection 2 below, if it finds that such information is not applicable to the request.

2. Site Plan Requirements

Site Plans shall be professionally prepared by a registered engineer, surveyor, architect, landscape architect, or community planner to a scale of not more than one (1) inch equals one hundred (100) feet (1' = 100'') showing the existing and proposed arrangement of the site and shall include the following:

- a. Small scale sketch of properties, streets and use of land within one quarter (1/4) mile of the subject property.
- b. Existing adjacent streets and proposed streets and existing curb cuts within one-hundred (100) feet of the property.
- c. All lot lines with dimensions.
- d. Parking lots and access points.
- e. Proposed buffer strips or screening.
- f. Significant natural features; and other natural characteristics, including but not limited to open space, stands of trees, brooks, ponds, flood plains, hills, and similar natural assets.
- g. Location of any signs not attached to the building.
- h. Existing and proposed buildings, including existing buildings or structures within one-hundred (100) feet of the boundaries of the property.
- i. General topographical features including existing contours at intervals no greater than two (2) feet.
- j. Number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.
- k. Dwelling unit densities by type, if applicable.
- l. Proposed method of providing sewer and water service, as well as other public and private utilities.
- m. Proposed method of providing storm drainage.
- n. Written description of the computation for required parking.
- o. Name, address, and phone number of the applicant.
- p. Name, address, phone number, and professional seal of the individual responsible for preparing the plan.

- 3. The Planning Commission shall review the Site Plan, along with any comments submitted by agencies, departments or consultants, and make such recommendations to the applicant that will cause the Plan to be in conformance with the review standards required by this

Section and this Ordinance. To this end, the Planning Commission may request from the applicant any additional graphic or written materials, prepared by a qualified person or persons, to assist in reviewing the site plan. Such material may include, but need not be limited to aerial photography, photographs, traffic impact studies, impact on significant natural features and drainage, soil tests, and other pertinent information.

4. The Planning Commission shall approve, deny, or approve with conditions the site plan based on the requirements of this Ordinance, and specifically the standards of Section 12.1.D.
5. No petition submitted for Site Plan review which has been denied, shall be resubmitted for a period of one (1) year from the date of denial, except as may be permitted by the Planning Commission after learning of new and significant facts or conditions which might result in a favorable action upon resubmission.

D. Site Plan Review Standards

1. All site plans shall be approved, approved with conditions, or denied based on the purposes, objectives and requirements of this Ordinance, and specifically, the following considerations when applicable:
 - a. The relationship of uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall be planned to take into account topography, size of the property, the uses on adjoining property and the relationship and size of buildings to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
 - b. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.
 - c. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within Weesaw Township.
 - d. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission may require that landscaping, buffers, and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
 - e. Satisfactory assurances shall be provided that the requirements of all other applicable Ordinances, codes, and requirements of Weesaw Township will be met.
 - f. The general purposes of this Ordinance and the Master Plan of Weesaw Township shall be maintained.

E. Approved Plans and Amendments

1. Upon approval of the Site Plan, the Planning Commission Chairman shall sign three (3) copies. One (1) signed copy shall be made a part of the Township's files; one (1) copy of the Site Plan shall be forwarded to the Building Official for issuance of a building permit; and one (1) copy shall be returned to the applicant.
2. Each development shall be under construction within one (1) year after the date of approval of the Site Plan, except as noted in this Section.

- a. The Planning Commission may grant one (1) extension of up to an additional one (1) year period if the applicant applies for such extension prior to the date of the expiration of the Site Plan and provided that:
 - (1) The applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and
 - (2) The site plan requirements and standards, including those of the Zoning Ordinance and Master Plan, which are reasonably related to the development, have not changed.
- b. Should neither of the provisions of Section 12.1E.2.a be fulfilled, or an extension has expired without construction underway, the Site Plan approval shall be null and void.
- c. Amendments to an approved Site Plan may occur only under the following circumstances:
 - (1) The holder of a valid Site Plan approval shall notify the Zoning Administrator of any proposed amendment to such approved site plan.
 - (2) Minor changes, requested by the applicant, may be approved by the Zoning Administrator upon certification in writing to the Planning Commission that the proposed revision does not alter the basic design nor any specified conditions of the plan as agreed upon by the Planning Commission. In considering such a determination, the Zoning Administrator shall consider the following to be a minor change:
 - (a) Reduction of the size of any building and/or sign.
 - (b) Movement of buildings and/or signs by no more than ten (10) feet.
 - (c) Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
 - (d) Changes in floor plans, of up to five (5) percent of the total floor area, which do not alter the character of the use or increase the amount of required parking.
 - (e) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - (f) Changes required or requested by the Township, Berrien County, or other State or Federal regulatory agency in order to conform to other laws or regulations.
 - (3) Should the Zoning Administrator determine that the change is not minor a new site plan shall be submitted and reviewed as required by this Chapter.

SECTION 12.2 OFF-STREET PARKING AND LOADING

A. General Requirements

- 1. Off-street parking for all non-residential zone districts and uses shall be either on the same lot or within three hundred (300) feet of the building or use it is intended to serve, measured from the nearest public entrance of the building to the nearest point of the off-street parking lot.
- 2. The storage of merchandise or products, motor vehicles displayed for sale, or the repair of vehicles is prohibited in any off-street parking lot.

3. Residential off-street parking spaces shall consist of parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. Such parking spaces shall occupy no greater than thirty-three (33) percent of the required front yard.
4. Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal facilities are provided elsewhere, in compliance with this Section.
5. Off-street parking existing at the effective date of this Ordinance, or amendment thereto, in connection with the operation of an existing building or use, shall not be reduced to an amount less than required for a similar new building or new use.
6. Two or more buildings or uses may collectively provide the required off-street parking.
7. The Planning Commission may defer construction of the required number of parking spaces if the following conditions are met:
 - a. Areas proposed for deferred parking shall be shown on the site plan, and shall be sufficient for construction of the required number of parking spaces in accordance with the standards of this Ordinance for parking area design and other site development requirements.
 - b. Evidence shall be presented by the applicant in support of a lower requirement.
 - c. Alterations to the deferred parking area may be initiated by the owner or required by the Zoning Administrator, and shall require the approval of an amended site plan, submitted by the applicant accompanied by evidence documenting the justification for the alteration.
8. Parking of semi-trucks with attached trailers, and commercial vehicles exceeding one and one-half (1½) ton load capacity shall be prohibited on any R-2 or R-3 zoned property.

B. Parking Lot Design Standards

1. Minimum dimensions of parking spaces and maneuvering aisles shall be in accordance with the following requirements:

Parking Pattern	Two-Way Aisle Width (ft.)	One-Way Aisle Width (ft.)	Parking Space	
			Width (ft.)	Length (ft.)
Parallel Parking	18	12	9	25
30-75 degree angle	24	12	9	21
76-90 degree angle	24	15	9	20

2. Minor adjustments of the dimensions prescribed in this Section may be authorized by the Zoning Administrator if consistent with generally recognized design standards for off-street parking facilities.
3. All parking lots shall be constructed with a durable, dust-controlled surface, which may consist of gravel, asphalt, or concrete.
4. All parking lots shall be constructed so as to permit proper drainage and prevent ponding or storage of water within the lot. Drainage shall be in accordance with the requirements of Weesaw Township and the Berrien County Drain Commission.
5. All parking lots shall be provided with adequate lighting. Parking lot lighting shall be shielded to prevent light from spilling onto adjacent residential districts or uses.
6. No permit will be issued for major changes to an existing parking lot unless the parking lot is made to comply with the requirements of this Ordinance. A major change consists of one or more of the following:
 - a. Replacement or alteration of existing drainage elevations or structures affecting more than fifty (50) percent of the existing parking lot.

- b. Any expansion or addition of a parking lot equal to or greater than twenty-five (25) percent of the area of the existing parking lot.
- c. Reconstruction of the parking lot, including the removal of existing pavement or drainage structures, which affects more than twenty-five (25) percent of the existing parking lot.
- d. Any other change which, in the opinion of the Zoning Administrator, constitutes a major change.

C. Off-Street Parking Requirements

- 1. Within the C-2 District, adjacent on-street parking spaces meeting the parallel parking space requirements above may be included in the calculation of required parking spaces, provided that at least fifty (50) percent of the width of the parking space is adjacent to the lot in question. [AMENDED 1/20/2010]
- 2. Required off-street parking spaces are noted in the table below for the uses listed. For those uses not specifically mentioned, the requirements for off-street parking shall be in accord with a use which the Planning Commission or Zoning Administrator considers similar in type.
- 3. When units of measurement determining the number of required off-street parking spaces result in the requirement of a fractional space that fraction shall require one (1) parking space.
- 4. The minimum number of off-street parking spaces shall be determined in accordance with the following tables:

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Residential	
Single family dwellings	2 for each dwelling unit
Housing for the elderly	1 for each 2 dwelling units, plus 1 for each employee, plus one 1 space for each five dwelling units to be marked as visitor spaces
Multiple family dwellings	2 for each dwelling unit, plus 1 additional space for each 2 units
Two family dwellings	2 for each dwelling unit
Institutional	
New Churches and any subsequent additions approved after the adoption date of the Ordinance	1 for each 4 seats in the main unit of worship or 1 per each 8 ft. of pew length, whichever is less
Existing churches and any subsequent additions approved after the adoption date of the Ordinance	1 for each 8 seats in the main unit of worship or 1 per each 16 ft. of pew length, whichever is less
Group day care homes and group foster care homes	1 for each four 4 clients, plus 1 for each employee
Schools, elementary and middle	1.5 for each classroom, plus amount required for auditorium or gymnasium seating
Schools, secondary and institutions of higher learning	1 for each 8 students, plus 1.5 for each classroom, plus amount required for auditorium or gymnasium seating
Theaters, assembly areas, auditoriums, gymnasiums	2 for each 5 seats, or 2 for each 8 feet of pew length, or 1 for each 3 persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Commercial	
Assembly halls without fixed seats	1 for each 3 persons allowed within the maximum occupancy load established by any applicable codes or ordinances

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Beauty/barber shop	3 for each chair
Bowling alleys	4 for each bowling lane plus required spaces for each accessory use
Funeral homes and mortuary establishments	1 for each 50 sq. ft. of usable floor area
Furniture, appliance and household goods retail sales	1 for each 1000 sq. ft. of usable floor area
Hotels and motels	1 for each guest room, plus required spaces for any accessory uses
Night clubs, bars & taverns	1 for each 100 sq. ft. of usable floor area, or 1 for each 2 persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Open air business	1 for each 200 sq. ft. of indoor usable area, plus 1 for each 1000 sq. ft. of outdoor display area
Personal service establishments	1 for each 50 sq. ft. of usable floor area
Restaurants with drive-through facilities	1 for each 100 sq. ft. of gross floor area, or 1 for each 2 persons allowed within the maximum occupancy load established by any applicable codes or ordinances, which ever is greater
Restaurants without drive-through facilities	1 for each 100 sq. ft. of usable floor area, or 1 for each 2 persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Retail stores not otherwise specified	1 for each 200 sq. ft. of usable floor area
Vehicle service stations	1 for each service stall, plus 1 for each pump island, plus 1 each for the maximum number of employees on the premises at any one time
Vehicle wash (automatic)	1 for each employee
Vehicle wash (self service)	1 for each 5 stalls
Video rental stores	1 for each 100 sq. ft. of usable floor area, plus 1 each for the maximum number of employees on the premises at any one time
Offices	
Banks, credit unions, savings and loan associations and other similar uses	1 for each 150 sq. ft. of usable floor area, plus 3 for each non-drive through automatic teller machine
Medical and dental offices and clinics	1 for each 300 sq. ft. of usable floor area
Offices not otherwise specified	1 for each 300 sq. ft. of usable floor area
Industrial	
Manufacturing, processing, and research establishments	1 for each 1000 sq. ft. of gross floor area, plus the required amount for offices located on the premises
Warehouses and wholesale	1 for each 2000 sq. ft. of gross floor area, plus those spaces required for offices or other accessory uses located on the premises

D. Off-Street Loading Requirements

1. On the same premises with every building or structure involving the receipt or distribution of vehicles, materials or merchandise there shall be provided and maintained on the lot adequate space for standing, loading and unloading. This space shall be placed to avoid undue interference with public use of dedicated rights-of-way and parking areas.
2. In the C-1 District all loading spaces shall be located in the rear yard in the ratio of at least ten (10) square feet per front linear foot of building and shall be computed separately from off-street parking requirements.

3. For non-residential uses in residential districts all loading spaces shall be located in the rear yard in the ratio of at least five (5) square feet per front foot of building and shall be computed separately from off-street parking requirements.
4. I-1 District:
 - a. In the I-1 District at least one (1) loading space shall be provided. All loading spaces shall be at least ten feet by fifty feet (10 x 50), or a minimum of five hundred (500) square feet in area. A minimum fourteen (14) foot clearance height shall be provided.
 - b. Loading spaces shall only be permitted off-street and in the rear yard or interior side yard.
5. Where an alley exists in the rear yard, loading requirements may be computed from the center of the alley.
6. All dedicated loading spaces shall be provided with a gravel base.

SECTION 12.3 SIGNS

A. Intent

This section is intended to protect and further the health, safety, and welfare of the residents of Weesaw Township; to maintain and improve the appearance of Weesaw Township; to conserve community character; to prevent traffic hazards; to provide safer conditions for pedestrians; and to promote economic development by regulating the construction, alteration, repair, maintenance, size, location, and number of signs. These regulations are further intended to provide reasonable identification for businesses and other uses within the community, but are not intended to serve as a means of advertising.

B. Sign Definitions

1. Awning: A retractable or fixed shelter constructed of non-rigid materials on a supporting framework projecting from the exterior wall of a building.
2. Awning sign: A sign affixed flat against the surface of an awning.
3. Balloon sign: A sign composed of a non-porous bag of material filled with air.
4. Banner sign: A fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework.
5. Billboard: A sign which advertises an establishment, product, service, or activity not available on the premises on which the sign is located.
6. Construction Sign: A sign which identifies the owners, financiers, contractors, architects, and engineers of a project under construction.
7. Directional Sign: A sign which gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs.
8. Freestanding Sign: A sign supported on poles not attached to a building or wall.
9. Government Sign: A temporary or permanent sign erected by Weesaw Township, Berrien County, or the state or federal government.
10. Ground Sign: A sign resting directly on the ground or supported by short poles not attached to a building or wall.
11. Marquee: A permanent structure constructed of rigid materials projecting from the exterior wall of a building.
12. Marquee Sign: A sign affixed flat against the surface of a marquee.

13. Mural: A design or representation painted or drawn on a wall which does not advertise an establishment, product, service, or activity.
14. Off-Premise Sign: A sign which relates to or advertises an establishment, product, merchandise, good, service or entertainment which is not located, sold, offered, produced, manufactured or furnished at the property on which the sign is located.
15. On-Premise Sign: Any sign which pertains solely to the use of the property on which it is located, such as to an establishment, product, merchandise, good, service or entertainment which is located, sold, offered, produced, manufactured or furnished at the property on which the sign is located.
16. Placard: A sign not exceeding two (2) square feet which provides notices of a public nature, such as “No Trespassing” or “No Hunting” signs.
17. Political Sign: A temporary sign used in connection with a noncommercial message or an official Weesaw Township, school district, county, state, or federal election or referendum.
18. Portable sign: A sign designed to be moved easily and not permanently attached to the ground, a structure, or a building.
19. Projecting Sign. A double-faced sign attached to a building or wall that extends more than twelve (12) inches but not more than thirty-six (36) inches from the face of the building or wall.
20. Reader Board: A portion of a sign on which copy is changed manually.
21. Real Estate Sign: A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.
22. Roof Line: The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.
23. Roof Sign: A sign erected above the roof line of a building.
24. Sign: A device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity.
25. Special Event Sign: Temporary and portable signs containing public messages concerning special events sponsored by governmental agencies or nonprofit organizations.
26. Wall Sign: A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than twelve (12) inches from the exterior face of the wall to which it is attached.
27. Window Sign: A sign installed inside a window and intended to be viewed from the outside.

C. General Sign Provisions

1. No person shall erect, alter, place or permit to be placed, or replace any sign without first obtaining a building permit, provided the following signs shall not require a building permit:
 - a. Directional signs of six (6) square feet in size or less
 - b. Government signs
 - c. Placards
 - d. Temporary sale signs of four (4) square feet in size or less
 - e. Window signs
 - f. Political signs
 - g. Real estate signs
2. Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other condition which impairs legibility or intelligibility.

3. Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.
4. Signs may be internally illuminated or if externally illuminated, except for home occupation signs which shall not be illuminated, the source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or residential property.
5. No sign shall be placed in, upon or over any public right-of-way, alley, or other public place, except as may be otherwise permitted by this Section.
6. No light pole, utility pole, or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.
7. No sign shall be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.
8. No commercial vehicle, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the street, unless no other parking area is available.
9. No sign shall employ any flashing, moving, oscillating, blinking, or variable intensity light, provided variable time-temperature signs may be permitted.
10. No sign shall contain any moving or animated parts nor have the appearance of having any moving or animated parts.
11. No wall sign shall extend beyond the edge of the wall to which it is affixed, and no wall sign shall extend above the roof line of a building.
12. No sign shall be erected above the roof line of a building.

D. Exempted Signs

The following signs shall be exempt from the provisions of the Weesaw Township Zoning Ordinance, except for the provisions of Section 12.3.C:

1. Government signs
2. Historical markers
3. Window signs
4. Memorial signs or tablets
5. Murals
6. Signs not visible from any street
7. Signs for essential services
8. Placards not exceeding two (2) square feet
9. Signs with address, owner, or occupant name, of up to two (2) square feet in area attached to a mailbox, light fixture or exterior wall
10. Flags or insignia of any nation, state, Township, community organization, or educational institution

E. Non-conforming Signs, Illegal Signs, and Signs Accessory to Non-conforming Uses

1. Every permanent sign which does not conform to the height, size, area, or location requirements of this section as of the date of the adoption of this Ordinance, is hereby deemed to be non-conforming.
2. Non-conforming signs may not be altered, expanded, enlarged, or extended; however, non-conforming signs may be maintained and repaired so as to continue the useful life of the sign.
3. For purposes of this article, a non-conforming sign may be diminished in size or dimension or the copy of the sign amended or changed without jeopardizing the privilege of non-

conforming use. If a sign is nonconforming in its setback, this section shall not apply, and the sign may not be replaced.

4. Any non-conforming sign destroyed by fire or other casualty loss shall not be restored or rebuilt if reconstruction will constitute more than fifty (50) percent of the value of the sign on the date of loss.
5. Any sign which for a period of one year or more no longer advertises a bona fide business conducted or product sold shall be removed by the owner of the building, structure, or property upon which such sign is located, within thirty (30) days of receipt of written notice by the Zoning Administrator.
6. A sign accessory to a non-conforming use may be erected in the Township in accordance with the sign regulations for the subject zoning district.

F. Units of Measurement

1. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
2. The area of a freestanding, ground, or projecting sign that has two or more faces shall be measured by including the area of all sign faces, except if two such faces are placed back-to-back and are of equal size, the area of the two back-to-back faces shall be counted as one face. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the one face.
3. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.
4. For buildings with multiple tenants, the sign areas for wall signs, projecting signs and awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing sign requirements for that portion of the total wall.

G. Sign Regulations Applicable to All Zoning Districts

1. All ground, wall and freestanding signs may include reader boards.
2. Any sign, including awnings with signs, not resting directly on the ground shall maintain a minimum clear space of eight (8) feet from the bottom of the sign to the ground.
3. Real estate signs shall be removed within thirty (30) days after completion of the sale or lease of the property.
4. Construction signs are permitted within any zone district, subject to the following restrictions:
 - a. Construction signs shall be no larger than thirty-two (32) square feet and not exceed eight (8) feet in height.
 - b. Construction signs shall not be erected until a building permit has been issued for the project which is the subject of the proposed sign and construction activity has begun.
 - c. Construction signs shall be removed within fifteen (15) days of the issuance of any Occupancy Permit for the building or structure which is the subject of the construction sign.

5. Special event signs, including banner signs, are permitted in any zone district, subject to the following restrictions:
 - a. No more than four (4) such signs shall be displayed for each special event. Such signs shall be located on the lot on which the special event is held.
 - b. The display of such signs shall be limited to the twenty-one (21) days immediately preceding the special event which is being advertised.
 - c. Such signs shall have a maximum size of thirty-two (32) square feet in area, and a maximum height of five (5) feet and shall be set back from any side or rear property line a minimum of fifteen (15) feet.
 - d. Such signs shall be removed within forty-eight (48) hours of the conclusion of the special event which is being advertised.

6. Directional signs are permitted subject to the following restrictions:
 - a. A directional sign may contain a logo of an on-promise establishment, but no advertising copy.
 - b. No such sign shall exceed six (6) square feet in area or four (4) feet in height.
 - c. Directional signs shall be limited to traffic control functions only.

7. Garage and estate sale signs are permitted subject to the following restrictions:
 - a. One (1) sign per lot or parcel is permitted, located on the lot or parcel on which such sale is being conducted, and set back a minimum of fifteen (15) feet from any side or rear property line.
 - b. Such sign shall not exceed six (6) square feet in area.
 - c. Such sign shall be erected no more than ten (10) days prior to the day(s) of the sale and shall be removed within one (1) day after the completion of the sale.

8. The placement of all signs shall comply with the corner lot clear vision standards of Section 2.19.

H. Schedule of Sign Regulations

Signs in each Zoning District shall be subject to the following regulations:

PERMITTED SIGNS A-1, R-2, & R-3 ZONING DISTRICTS	
Ground signs for residential subdivisions, manufactured home parks, multiple family complexes, schools, or other non-residential uses allowed in the district	
Number	One (1) per major entrance
Size	No greater than thirty-two (32) square feet
Location	Minimum of fifteen (15) feet from any side or rear property line
Height	No higher than six (6) feet
Home occupation signs	
Number	One (1) per lot or parcel
Size	No greater than four (4) square feet
Location	On wall of house facing street or fifteen (15) feet from side and front lot line
Wall signs for non-residential uses	
Number	One (1) per street frontage
Size	No greater than five (5) percent of the wall area to which the sign is affixed.
Location	On wall of building facing street

A-1, R-2, & R-3 ZONING DISTRICTS	
Political signs	
Number	One (1) per issue or candidate
Size	No greater than six (6) square feet
Location	Minimum of fifteen (15) feet from any side or rear property line
Height	No higher than six (6) feet
Real estate signs	
Number	One (1) per lot or parcel
Size	No greater than six (6) square feet for developed properties or lots; thirty-two (32) square feet for vacant lots or parcels
Location	Minimum of fifteen (15) feet from any side or rear property line
Height	No higher than six (6) feet
PERMITTED SIGNS C-1 COMMUNITY COMMERCIAL	
Ground signs	
Number	One (1) per lot or parcel, except that only one (1) ground sign or one (1) freestanding sign shall be permitted per lot or parcel
Size	No greater than thirty-two (32) square feet
Location	Minimum of fifteen (15) feet from any property line
Height	No higher than six (6) feet
Freestanding signs	
Number	One (1) per lot or parcel, except that only one (1) ground sign or one (1) freestanding sign shall be permitted per lot or parcel
Size	No greater than fifty (50) square feet
Location	Minimum of fifteen (15) feet from any property line
Height	No higher than twenty (20) feet, with a minimum clearance of eight (8) feet between the ground and the bottom of the sign.
Wall signs	
Number	One (1) per street frontage
Size	No greater than ten (10) percent of the wall area to which the sign is affixed, not-to-exceed a maximum sign area of one hundred fifty (150) square feet.
Location	On wall of building facing street
PERMITTED SIGNS C-1 COMMUNITY COMMERCIAL (CONT.)	
Political signs	
Number	One (1) per issue or candidate
Size	No greater than six (6) square feet
Location	Minimum of fifteen (15) feet from any side or rear property line
Height	No higher than six (6) feet
Real estate signs	
Number	One (1) per lot or parcel
Size	No greater than thirty-two (32) square feet
Location	Minimum of fifteen (15) feet from any side or rear property line
Height	No higher than six (6) feet
Billboards - Not Permitted	
Flashing Lights -Not Permitted	
PERMITTED SIGNS I-1 INDUSTRIAL DISTRICT	
Ground signs	
Number	One (1) per lot or parcel

Size	No greater than thirty-two (32) square feet
I-1 INDUSTRIAL DISTRICT	
Location	Minimum of five (5) feet from the front property line, minimum of fifteen (15) feet from the side or rear property line
Height	No higher than six (6) feet
Wall signs	
Number	One (1) per street frontage
Size	No greater than ten (10) percent of the wall area to which the sign is affixed, not-to-exceed a maximum sign area of two hundred (200) square feet.
Location	On wall of building facing street
Political signs	
Number	One (1) per issue or candidate
Size	No greater than sixteen (16) square feet
Location	Minimum of five (5) feet from the front property line, minimum of fifteen (15) feet from the side or rear property line
Height	No higher than six (6) feet
Real estate signs	
Number	One (1) per lot or parcel
Size	No greater than thirty-two (32) square feet
Location	Minimum of five (5) feet from the front property line, minimum of fifteen (15) feet from the side or rear property line
Height	No higher than six (6) feet
Billboards - Not Permitted	
Flashing Lights - Not Permitted	

**CHAPTER 13
SPECIAL LAND USES**

SECTION 13.1 APPLICATION PROCEDURES

- A. Application for a special land use permit shall be made to the Zoning Administrator and shall include the following:
 - 1. Five (5) copies of a site plan containing the information required by Section 12.1.C.2.
 - 2. A completed application form.
 - 3. An application fee, as established from time to time by resolution of the Township Board, shall be collected. The unused balance, if any, shall be refunded to the applicant.

SECTION 13.2 NOTIFICATION, HEARING, AND REVIEW PROCEDURES

- A. Upon receipt of an application for a special land use permit, the Zoning Administrator shall cause notice to be given of a special land use public hearing, in accordance with the requirements of the Zoning Act.
- B. Following notice, the Planning Commission shall hold a public hearing on the special land use permit application.
- C. The Planning Commission shall approve, approve with conditions, or deny the special land use permit request, based upon review and consideration of materials submitted with the application, comments received at the public hearing, and the applicable standards of this Chapter.
- D. If the Planning Commission finds that the request meets all required standards, they shall approve the special land use request.

SECTION 13.3 GENERAL STANDARDS FOR APPROVAL

- A. The Planning Commission shall approve, or approve with conditions, a special land use permit request only upon a finding that all of the following general standards for approval are complied with:
 - 1. The use is designed and constructed, and will be operated and maintained, so as to be harmonious with the existing or intended character of the general vicinity, will be compatible with adjacent uses of land, and will not change the essential character of the area in which it is proposed.
 - 2. The use is, or will be as a result of the special land use permit, served adequately by public services and facilities, including, but not limited to streets, police and fire protection, drainage structures, refuse disposal, and schools. Adequate water and sewer facilities must be available.
 - 3. The use does not involve activities, processes, materials and equipment or conditions of the operation that will be detrimental to any persons, property or the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.
 - 4. The use will be compatible with the natural environment and will be designed to encourage conservation of natural resources
 - 5. The site plan proposed for such use demonstrates compliance with the applicable specific design standards for the special land use as contained in Section 13.6.
 - 6. The use is consistent with the Weesaw Township Master Plan.

[AMENDED 9/8/2014]

- B. The decision of the Planning Commission shall be incorporated in a statement of conclusions specifying the basis of the decision and any conditions imposed. The decision and statement of conclusions, including conditions imposed on any approval, shall be kept and made a part of the Planning Commission minutes.
- C. No request for special land use approval which has been denied shall be resubmitted for one (1) year following such disapproval, except as may be permitted by the Planning Commission after learning of new and significant facts or conditions which might result in favorable action upon resubmission.
- D. The decision of the Planning Commission regarding special land use approval, including any conditions attached thereto, may not be appealed to the Zoning Board of Appeals. However, prior to approval of a special land use, the Zoning Board of Appeals may consider a variance to any dimensional or similar numerical requirements of the ordinance related to the proposed special land use. If the Zoning Board of Appeals approves a variance, the Planning Commission shall incorporate the decision of the Zoning Board of Appeals, including any conditions of approval, into any affirmative decision on the special land use request. [AMENDED 2-15-12]

SECTION 13.4 CONDITIONS OF APPROVAL

- A. The Planning Commission may impose reasonable conditions in conjunction with approval of a special land use permit which are deemed necessary to ensure compliance with the general standards for approval in Section 13.3 and the Specific Design Standards of Section 13.6.
- B. Conditions shall be imposed in a manner in accordance with the Zoning Act.

SECTION 13.5 APPROVAL TERM, EXPIRATION AND REVOCATION

- A. A special land use approval shall be valid for one (1) year from the date of the approval of the use by the Township. If the use or construction related to the use has not commenced and proceeded meaningfully toward completion by the end of the one (1) year period, the special land use shall expire and no longer be valid. The Planning Commission may, upon petition from the applicant prior to expiration, extend this period for up to one (1) additional year if they find that the owner or applicant is maintaining a good faith intention to complete construction and commence the use within the extended time period.
- B. A special land use permit, including conditions imposed, is attached to and shall run with the land for which the permit is granted, and shall be binding upon subsequent owners and all occupants of the subject land, unless revoked according to the requirements of this Section.
- C. A special land use permit may be revoked by the Planning Commission, upon written notice to the owner and holding of a public hearing, following notice according to the Michigan Zoning Enabling Act (Act 110 of 2006). The Planning Commission may revoke the special land use after the public hearing if it finds that one or more of the following conditions exists:
 - 1. The location, operation or other aspects of the special land use do not comply with the requirements of this ordinance.
 - 2. The special land use is not in conformance or is otherwise in violation of any condition applied to the special land use approval.
 - 3. The special land use approval was for an activity or use with a discernibly finite nature, the activity or use has ceased, and the approved activity or use, by nature, cannot be resumed in the same manner as the original approval.

[AMENDED 2-15-12]

SECTION 13.6 SPECIAL LAND USE SPECIFIC DESIGN STANDARDS

The following Special land uses shall be subject to the requirements of the District in which it is located, in addition to all the applicable conditions, standards, and regulations as are cited in this Section. The following uses have such conditions, standards, or regulations:

A. Adult uses.

1. In the development and execution of this subsection, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one or more of them is located in proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this subsection. These controls are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimize activities which are prohibited in other sections of the Zoning Ordinance.
2. Any adult use is permitted if:
 - a. The use is located within a zone district where the use requires special land use approval.
 - b. The use is not located within a two thousand (2,000) foot radius of another such use except that such restrictions may be waived by the Planning Commission, if the following findings are made:
 - (1) That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this subsection will be observed.
 - (2) That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surroundings.
 - (3) That the establishment of a regulated use, or an additional regulated use, in the area will not be contrary to any program of neighborhood conservation.
 - (4) That all applicable state laws and local ordinances will be observed.
 - (5) Prior to the granting of any waiver as herein provided, the Planning Commission may impose any such conditions or limitations upon the establishment, location, construction, maintenance, or operation of the regulated use as may, in its judgment, be necessary for the protection of the public interest. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.
 - c. Parking spaces shall be provided at the ratio of one (1) space per person permitted by the maximum occupancy load established by local, county, state, fire, health, or building codes.
 - d. No adult use shall remain open at any time between the hours of 11:00 p.m. and 10:00 a.m. and no such use shall be open on Sundays.
 - e. No alcohol shall be served at any adult use.

- f. No adult use shall permit any person under the age of eighteen (18) years to enter the premises. Signs shall be conspicuously posted noting that such minors are not allowed.
- g. All parking areas and the building shall be well lighted to ensure the safety and security of patrons. These areas shall remain lighted for one (1) hour after closing each night.
- h. The lot or parcel on which the use is located shall not be closer than two thousand (2,000) feet from any residential use or zoning district, school, church, or park, measured from lot line to lot line.

B. Agribusinesses.

- 1. Structures shall be located at least one hundred (100) feet from all property lines.
- 2. A proper buffer or greenbelt shall be provided between the subject use, and any adjacent residential uses, in accordance with Section 2.16.
- 3. All storage, processing, and truck parking shall take place at least fifty (50) feet from all property lines.

C. Banks, credit unions, savings and loan associations, and other similar financial institutions, as determined by the Zoning Administrator, having drive-through facilities.

- 1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of four (4) stacking spaces for each drive-through teller operation, whether personal or automatic, shall be provided.
- 2. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
- 3. Access driveways shall be located no less than seventy-five (75) feet from the nearest right-of-way line of any intersecting street or fifty (50) feet from the nearest edge of any other driveway.

D. Bed and breakfast establishments.

- 1. The establishment shall be located on property abutting a public street.
- 2. No such use shall be permitted on any property where there exists another bed-and-breakfast establishment within seven hundred fifty (750) feet, measured between the closest property lines.
- 3. Such uses shall only be established in a single family detached dwelling.
- 4. Parking shall be located to minimize negative impacts on adjacent properties.
- 5. The number of guest rooms in the establishment shall not exceed three (3), plus one (1) additional guest room for each ten thousand (10,000) square feet of lot area, or fraction thereof, by which the lot area exceeds one (1) acre, not to exceed seven (7) guest rooms in any case.
- 6. Exterior refuse storage facilities beyond what might normally be expected for a single family detached dwelling shall be prohibited.
- 7. Signs for bed and breakfast establishments shall comply with the requirements of the zone district in which the use is located.
- 8. The establishment shall contain the principal residence of the operator.
- 9. Accessory retail or service uses to a bed-and-breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, bakeries, etc.
- 10. Meals shall be served only to the operator's family, employees, and overnight guests.

E. Cemeteries

1. Minimum lot size of ten (10) acres is required.
2. Plan must show any roads, and plot areas.
3. A five (5) foot tall fence is required along any property line not adjacent to a road right-of-way.
4. One (1) sign is permitted that must conform to the district restrictions for signs.

F. Churches.

1. Minimum lot width shall be two hundred (200) feet.
2. Minimum lot area shall be two (2) acres, plus an additional fifteen thousand (15,000) square feet for each one hundred (100) seating capacity, or fraction thereof, in excess of one hundred (100).
3. The property location shall be such that at least one (1) side of the property abuts and has access to a county primary road.

G. Commercial storage warehouses.

1. Minimum lot area shall be one (1) acre.
2. A residence may be permitted on the premises for security personnel or on-site operator. The residence shall conform to the minimum requirements for a single-family detached dwelling in the R-2 District.
 - a. One (1) parking space shall be provided for each ten (10) storage cubicles, and shall be equally distributed throughout the site.
 - b. Two (2) parking spaces shall also be required for the residence of security personnel or on-site operator employed on the premises.
 - c. One (1) parking space shall also be required for every twenty (20) storage cubicles, up to a maximum of ten (10) spaces, to be located adjacent to the rental office, for the use of customers.

H. Funeral homes and mortuary establishments.

1. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.
2. Minimum lot area shall be one (1) acre and minimum lot width shall be one hundred fifty (150) feet.
3. An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.
4. No waiting lines of vehicles shall extend off-site or onto any public street.
5. Access driveways shall be located at least one hundred (100) feet from the nearest right-of-way line of any intersecting street or from the nearest edge of any other driveway.

I. Group day care homes.

1. A drop off/pick up area shall be provided for motorists off the public street, which permits vehicles to exit the property without backing into the street.
2. Fencing, not less than four (4) feet or more than six (6) feet in height, shall be provided around all outdoor areas accessible to children.

3. There shall be a contiguous open space of a minimum of one thousand two hundred (1,200) square feet provided on the subject parcel. Said open space shall not be located within a required front yard setback area. This requirement may be waived by the Planning Commission if public open space is available within five hundred (500) feet of the subject parcel, measured from the nearest lot line of the use to the nearest lot line of the public open space.

J. Hotels and motels.

1. Minimum lot area shall be one (1) acre and minimum lot width shall be two hundred (200) feet.
2. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setback of ten (10) feet.
3. Access driveways shall be located no less than one hundred (100) feet from the nearest right-of-way line of any intersecting street or seventy five (75) feet from the nearest edge of any other driveway.

K. Housing for the elderly.

1. All dwelling units in the building shall have a minimum of four hundred fifty (450) square feet per unit.
2. Retail and service uses may be permitted on the site if such uses are accessory to the elderly housing use. All such uses shall be within the principal residential structure. No exterior signs of any type are permitted advertising such accessory use.
3. The allowable density of the zoning district may be increased by no more than fifty (50%) percent for all nursing care units licensed by the state of Michigan and no more than twenty five percent (25%) for non-licensed nursing care and supportive care units.
4. All medical waste facilities shall be secured and meet the requirements of the Michigan Department of Health.
5. Walkways shall be provided from the main building entrances to the sidewalk along the adjacent public street.
6. The maximum height may be increased by one story for each additional forty (40) feet the building is set back from all required yards.

L. Kennels.

1. For kennels, the minimum lot size shall be two (2) acres for the first four (4) animals and an additional one-third (1/3) acre for each additional animal.
2. No buildings in which animals are kept, runs, or exercise areas shall be located nearer than two hundred (200) feet to any lot line and shall not be located within any required yard area.

M. Lumber and planing mills.

1. The principal and accessory buildings and structures shall not be located within three hundred (300) feet of any adjacent residential use or district property line.

N. Lumberyards.

1. The lot area used for parking, display, or storage shall be a dust controlled surface and shall be graded and drained so as to dispose of all surface water.

2. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.
3. Materials stored within ten (10) feet of the property line of the use may be stacked to a height not exceeding ten (10) feet.
4. Lighting for parking and outdoor storage areas shall be shielded to prevent light from spilling onto any residential district or use property line.

O. Manufacture, compounding, processing, packaging, or treatment of products requiring stamping or punch press operations.

1. The principal and accessory buildings and structures shall not be located within three hundred (300) feet of any residential use or district property line.

P. Manufacture of corrosive acid or alkali, cement, lime, gypsum, or plaster of Paris.

1. Access driveways shall be located no less than one hundred (100) feet from the centerline of the intersection of any street or any other driveway.
2. The principal and accessory buildings and structures shall not be located within one thousand (1,000) feet of any residential use or district.

Q. Metal plating, buffing, and polishing.

1. The principal and accessory buildings and structures shall not be located within three hundred (300) feet of any residential use or district property line.

R. Commercial removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.

1. Purpose

Weesaw Township recognizes that certain earth solids, minerals and valuable natural resources may exist in the Township which can only be used if extracted from the earth; that the extraction of earth solids, minerals and valuable natural resources by its nature can present very serious consequences that can be devastating to the environment, the value of property in the Township and surrounding area, the health and safety of residents and the general public welfare; that very serious consequences can occur from the process of extracting earth solids; that prior to any activity involving earth solids removal, processing or extraction, a special use permit for mining of earth solids must be secured from the Weesaw Township Planning Commission as set forth in this ordinance.

2. Applicability

The following requirements and conditions shall be applicable:

- a. Topsoil or sand may be removed from a lot for the purpose of erecting or constructing a building or structure on the lot, provided a permit is first obtained from the Zoning Administrator. If any removal from a parcel exceeds five hundred (500) cubic yards of material, then the applicant shall comply with the provisions of this Section. In addition, topsoil or sand may be moved from one part of a lot to another part if such action will not cause, or be likely to cause, sand blows, stagnant water pools, bogs or possible future injury to adjoining properties.

- b. Existing Operations. Any existing earth solids operations which were lawfully established without a Special Land Use approval and active at the effective date of this the Zoning Ordinance, or amendments thereto, shall conform to approved Site Plans and any conditions of approval, if applicable. Any changes to the Site Plan of an existing earth solids operation lawfully established without a Special Land Use approval shall be processed in the same manner as a new Special Land Use, and shall conform to the Zoning Ordinance and any amendments thereto.
- c. Amendments. A Site Plan approved in conjunction with a Special Land Use shall become part of the approval record. Any improvements relative to the authorized use shall be consistent with the approved Site Plan and any applicable conditions of approval. Any changes to an approved Site Plan, Special Land Use, or any conditions attached to its original approval shall be processed in the same manner as a new Special Land Use, and shall conform to the Zoning Ordinance and any amendments thereto.

3. Submittal Requirements

The following information shall be provided and the Planning Commission shall find that the proposed use will not unduly impact surrounding properties and the Township in general, in accordance with the following.

- a. In addition to the requirements of Section 13.1. A, the following information shall be provided:
 - (1) The size of the property from which such topsoil, sand, gravel or other such materials are to be removed.
 - (2) The amount of topsoil, sand, gravel or other such materials which is to be removed.
 - (3) The purpose of such removal.
 - (4) A contour map of the tract of land involved in the operation, including dimensions of the land, access to abutting public streets and whether or not the roads are “all weather” roads, and additional roads, if any, to be constructed, and the location and nature of the land uses on adjoining property.
 - (5) The type of mining or processing proposed to be conducted and the nature of the equipment to be used.
 - (6) The location of principal processing equipment, if any and the distance of any proposed excavation, mining, stockpiling, or processing from the boundaries of the site.
 - (7) A plan showing the final grades and elevations to be established following the completion of the mining operations, including a written description of proposed land uses at the conclusion of extraction or storage activity. In addition, to proposed uses for the land the plan must include a detailed description of any future lakes and roads and other features that may show the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the mining activities.
 - (8) A plan illustrating a conceptual layout of the property for internal vehicular circulation, if any, areas of open water and the nature and extent of vegetation to be established.

- b. Existing and Projected Roadway Conditions and Traffic. A written and graphic characterization of the expected haul routes and the proposed access to the site. This shall include:
- (1) An identification of expected primary and secondary routes that truck traffic will use when traveling to and from this site.
 - (2) A characterization of the routes including:
 - (a) Types of surfaces
 - (b) Number of lanes and typical road width
 - (c) Typical roadway speeds or speed limits
 - (d) Known or potential trouble spots for heavy truck traffic including intersections, hills, and curves.
 - (e) Number and location of schools, bus stops, day care operations, churches, and businesses along the routes within one mile of the operation
 - (f) Existing traffic volumes along appropriate segments of the anticipated primary and secondary haul routes
 - (g) Projected traffic increases by type and route
 - (h) Expert analysis and testimony in general as to the adequacy of the routes for truck traffic
 - (i) Identification of documented or potential problems such as, inadequate clear vision, roadway width, steep grades, surface conditions, maintenance or land use and traffic conflicts
 - (j) Expert analysis and identification of potential solutions to identified or documented problems in the form of roadway improvement, extra maintenance, traffic control devices, use or speed limitations or combination of the above.
 - (k) Indicate the proposed location of proposed access (driveway or driveways) and their width, type of surface and other design features such as surface, deceleration and acceleration tapers, culvers, etc.
 - (l) Indicate minimum sight distances
 - (m) Accurately depict the roadway conditions and width within 500 feet of each access drive including right of way
 - (n) A written statement from the applicable road officials as to whether the proposed access to the site will meet or exceed their standards and if extraction operations or other operations will be allowed to occur within the road right of way, if requested or proposed and under what types of limitation

1. Standards & Requirements

- a. Setbacks. In accordance with the following provisions, sufficient setbacks shall be provided from all property lines to assure adequate isolation, screening and lateral support for the adjacent property:
- (1) No excavation operation shall be permitted closer than one hundred (100) feet to the boundary lines of the property.
 - (2) Where practical material screening, crushing and processing plants and all accessory structures shall be located at a lower level than the surrounding terrain to lessen visual and noise impact. The foregoing shall also apply

to stockpiling and loading areas and to the staging of transportation equipment.

- (3) No excavation operation shall be located within five hundred (500) feet of a natural stream, waterway, or wetland. No mining operations shall interfere with the established flow of surface waters to the detriment or damage of adjoining or private properties.

Setbacks	
Adjacent Property Designation	Minimum Setback from Property Line
Industrial (I)	100
Commercial (C-1, C-2, GC)	150
Residential (A-1, R-2, R-3)	300

- b. Distance of Excavation From County or State Road Right-of-Way
 - (1) Excavation shall not be permitted within one hundred (100) feet of either a county or state road right – of – way.
 - (2) Excavation beyond one hundred (100) feet of a county or state road right – of – way must maintain slopes which do not exceed 30 degrees. If at any time the slope becomes steeper than 30 degrees, excavation must be stopped and filling and/ or holding operation shall begin.
 - (3) If terrain is not of highway or road level, but in the nature of a mound, high bank, or hill, excavation will be permitted to the highway / road right – of – way and to that road’s highest level at that point.
 - (4) Any further excavation or removal of dirt below the road’s highest level must then be made one hundred (100) feet from the road right – of – way and slope no steeper than 30 degrees must be maintained.
 - (5) If excavation takes place, and terrain remaining on road right – of – way is higher than road level, any requirements of the Berrien County Road Commission shall be met.

- c. Security and Safety. Any change of the natural contour of the land, both during mining operations and at the time of abandonment, shall be maintained in a safe condition.
 - (1) The perimeter of the mining site will be conspicuously and adequately posted with signs at not less than 100 foot increments unless otherwise increased by the Planning Commission (See Section 12.3). The signs shall indicate the danger or dangers in the area.
 - (2) Above the active face of the extraction area, including submerged areas and all un-reclaimed slopes exceeding one foot vertical to three feet horizontal (30 degrees) one of the following will be placed as a final caution and physical barrier to trespassers:
 - (a) Two strands of plain wire
 - (b) Orange construction fencing / Orange snow fencing
 - (c) Temporary board fencing
 - (d) Placement of saw horses connected to deter access
 - (e) Earthen berm (at least five (5) feet high)

In reference to items (2) (a) through (2) (e) of b. Security and Safety, this fence shall be portable and shall be periodically relocated so to remain no closer than fifty (50) feet and no further than one hundred (100) feet from the active pit and un-reclaimed slope area.

- (3) At the access point(s) to the site from a public roadway a lockable gate shall be maintained to guard the entrance of the mining area. It shall be locked at all times when the site is not in use, or when an attendant is not present.
- (4) No business or industrial buildings or structures of a permanent nature shall be erected, except where such building is a Permitted Use within the District in which the extraction activity is located.
- (5) No material storage, processing or truck or equipment parking shall be located within two hundred (200) feet of any adjacent residence or within fifty (50) feet of any other adjacent property.
- (6) As the natural resources are being removed, the property shall be restored by the placement of topsoil where feasible, and all excavations shall be sloped to a gradient with not more than a thirty (30) degree slope and the contour blended as nearly as practical with the natural surroundings.

d. Sight Barriers and Screening. Sight barriers shall occupy all boundaries of the site adjacent to residentially occupied properties which lack natural screening conditions. Unless otherwise approved, site barriers shall consist of the following:

- (1) All of the operation shall be screened with an evergreen screen planting on any side adjacent to residentially occupied property.
- (2) Earth berms natural, or constructed to a height of five (5) feet above the mean elevation of the centerline of the adjacent public highway or six (6) feet above the general level of terrain along interior property lines, as the case may be. Unless specifically authorized by the Planning Commission, berms shall have slopes that are not in excess of 30 degrees and shall be contoured and capable of being planted with grass and mowed. If used as a base for the planting of trees, the composition and contours of the berms shall be capable of supporting hearty evergreen trees, without irrigation.
- (3) Plantings of at least two staggered rows of evergreen trees parallel to the boundaries of the property of sufficient height and spacing to provide effective sight barriers at the time of planting (installation). Plantings of evergreens are to be not more than 10 feet apart, and shall not grow to be less than 10 feet in height. Planting screens shall be an average height of six (6) feet at the time of planting. Plantings shall be watered and cared for to assure long term survival. Dead or diseased plantings shall be replaced as necessary to maintain the effectiveness of the screen in the current planting season (i.e. plantings should be made during the seasons and conditions that are most appropriate to ensure their survival).

e. Reclamation. Upon termination of earth solids removal, the following provisions shall apply:

- (1) All extraction and storage areas shall be reclaimed progressively as they are worked out. Reclaimed sites shall be left in a natural and inconspicuous condition and shall be lacking in hazard. If the reclamation plan provided for a permanent water area, upon completion

of any phase of reclamation then excavations for the permanent water area shall be made to a water – producing depth. For the purpose of this subsection, a water–producing depth shall be defined as not less than ten (10) feet below the average summer level. Grading of permanent lakes and ponds shall ensure underwater slopes which do not exceed one (1) foot in elevation for each two (2) feet of horizontal for pond and lake beds. This slope must be maintained and extended to a depth of six (6) feet below the average summer level to prevent erosion or any other potential deterioration. Grading above the average summer level shall not be steeper than one (1) foot vertical to (3) feet horizontal. The water area shall be tested for water quality by the Berrien County Health Department prior to continuation of reclamation. All non-permanent water areas shall be graded or backfilled to ensure that the excavated area will not retain or collect stagnant water

- (2) The surface area of all land not to be permanently submerged under water shall be graded and backfilled as necessary so as to reduce peaks and depressions, and to produce a gently rolling surface that will minimize erosion due to rainfall, and which will produce a natural appearance in relation to the property in the area of the subject property.
- (3) Slopes shall be graded toward permanent water areas, if any, and to the pit floor in an operation without preeminent water areas. The area shall not be graded to the exterior area of the property so as to create the potential of flooding on adjoining properties and roads. In no event shall a reclaimed slope have a grade in excess of thirty (30) degrees. For permanent water areas, for a distance not less than ten (10) feet no more than fifty (50) feet, the submerged slopes shall be graded from the water’s edge at a grade not in excess of a minimum ratio of one (1) foot vertical to six (6) feet horizontal.
- (4) Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are to be completed within a one year period. Where used, top soil shall be applied to a minimum depth of six (6) inches sufficient to support vegetation. Vegetation shall be reclaimed by the use of appropriate seeding of perennial grasses and ground cover or plantings of shrubs or trees in all parts of the reclaimed mining area not to be submerged under the water, or within twenty-five (25) feet of the shoreline of a permanent water area. Reclamation shall be implemented in a manner so as to prevent washout and erosion.
- (5) In the event that filling of a mined area is necessary to complete reclamation, the fill material shall not consist of/or contain any organic waste, hazardous waste, industrial waste, sludge and sewage residues, whether compounded, mixed, combined, bound, or contained within any other material through any chemical or physical process or contain any other material which will, or is likely to impair or harm the air, water, and natural resources, and public trust therein, and /or the public health safety. Any solid waste regulated by Act 64 of the Public Acts of 1979 shall not be used for fill and/or reclamation material of a mined area. Only material which will settle firmly without pockets shall be used.
- (6) Upon cessation of mining operations by abandonment or otherwise as determined by the Planning Commission, the operator, within a reasonable period of time not to exceed twelve (12) months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and

equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.

- (7) Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operation in any area consisting of one half acre or more unless part of a larger area where the Planning Commission has specified the timing and sequencing of reclamation. Substantial completion of reclamation and rehabilitation shall be effected within one year after termination of mining or excavations activity. Inactivity for one twelve (12) month consecutive period shall constitute justification for the Planning Commission to evaluate the operation for the purpose of determining whether the operator has terminated mining activity.
- (8) If the owner of a permit neglects, omits or otherwise fails to comply with any provision of the special use permit or of this ordinance concerning the reclamation of the property subject thereto, the Weesaw Township Board of Trustees shall direct in writing that the owner of the permit, or owner of the property subject to the special use permit correct the condition. If the owner of the permit, or owner of the property fails to comply with the directions within forty – five (45) days, the township may cause the property to be reclaimed to the previously existing condition or as set forth in the plan in accordance with the Special Land Use Section of this ordinance (See Section 13.3 R 4.e Reclamation). The cost thereof may be assessed and recovered from the performance guarantee, or may be assessed against the property as a lien and shall be treated and collected in the same manner as delinquent taxes under the general laws of the State of Michigan.

f. Location and Access. No earth removal, or mining operations shall be permitted within areas near existing residential development unless it is first shown by evidence and facts presented by the applicant and confirmed by the Planning Commission that severe negative consequences to the residents health, safety, and welfare from the impacts of noise, dust, vibration, traffic and adverse hydrologic or geologic conditions created by the operation will be avoided.

- (1) When possible, the driveway or haul road used to obtain ingress and egress access to the operation shall be situated on a primary road, as defined by the Berrien County Road Commission, or on a road which already carries measurable amounts of commercial truck or agricultural related traffic. The Planning Commission may require the applicant/operator to construct and/or improve a private road to accommodate the truck travel necessitated by the operations as a condition to such operations, and for the purpose of routing traffic away from residences or residential areas and preventing the breaking up of existing roads which are not “all weather” roads.
- (2) Unless otherwise waived by the Planning Commission the first three hundred (300) feet of road or drive used to access the site from the public right of way shall be covered with a paved surface, or aggregate material and maintained in a dust controlled condition.

- (3) All access drives shall be clearly visible and posted. A sign no smaller than one foot by two feet (1'x2') setting forth the name, address, and telephone number of the permit owner shall be placed at the main access of the property (Ref. Section 12.3).
- g. Noise and Vibration
- (1) Noise and vibration shall be controlled to minimize their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls, and planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.
 - (2) To further minimize the effects of noise and vibration, the hours of operation shall be controlled as indicated in Section 13.3 R 4.i.
- h. Dust and Emissions.
- (1) Air pollution in the form of dust, dirt, and vehicle emissions shall be kept to a minimum by the use of modern equipment and methods of operation designed to avoid any excessive dust, dirt, or hydro-carbon emissions injurious or substantially annoying the occupants of adjoining property. Unpaved roads used to transport materials which are located within five hundred (500) feet of a private residence, business, or public recreation area, shall be treated by the owner of the permit as necessary for dust control, as determined by the Weesaw Township Zoning Ordinance, or the subject Special Land Use (SLU).
 - (2) Interior haul roads used in the operation shall at a minimum have their surface treated to minimize any such nuisance (See Section 13.3. R 4.f). The Township may as applicable require the periodic application of water or chemical dust control agents on unpaved segments, and/or the installation and use of a truck undercarriage wash facility prior to trucks exiting onto a paved public street.
- i. Hours of Operation
- (1) Unless otherwise restricted by the Planning Commission as a condition necessary to minimize the adverse effects of the operation, site access by, and operation of large vehicles or equipment and the repair and servicing of equipment shall be limited to the daylight period between 8:00 a.m. and 5:00 p.m. Monday through Friday and between 8:00 a.m. and 12:00 noon on Saturday.
 - (2) Unless otherwise restricted by the Planning Commission as a condition necessary to minimize the adverse effects of the operation, all mining operations, including extraction, processing, washing, and internal stockpiling materials and all site grading and truck loading shall be limited to the hours of 8:00 a.m. through 5:00 p.m. Monday through Friday, and 8:00 a.m. and 12:00 noon on Saturday.
 - (3) No activities on the property shall occur on Sunday.
 - (4) The limitation of operations on Postal Holidays shall be the same as the limitations applicable to Sundays.
 - (5) If the site is to be open to outside operators and contractors, signs shall be posted which clearly depicts the hours of operation (See Section 12.3). The sign shall further state that no dumping is allowed and shall

contain the name and telephone number of the operator. The contact shall be made available 24 hours a day seven days a week.

- (6) The operator shall post and otherwise inform truckers and equipment operators that violation of the hours of operation and speed limit or the operations of trucks and equipment in an unsafe manner or other manner that causes undue noise, dust, or other nuisance, may be cause for revoking the privilege of utilizing the operation.

5. Decision and Permits.

- a. The applicant shall secure all necessary permits from Township, County, and State authorities.
- b. In making any decision, the Planning Commission shall have the authority to impose such additional conditions and safeguards, as it deems necessary for the protection of the health, safety, and general welfare of the neighborhood and of the adjoining property owners.
- c. The Zoning Administrator shall review all permits periodically.
- d. In addition to annual review, the Planning Commission may provide for the periodic field inspections of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same.
- e. After expiration of any initial permit period, the Planning Commission may renew the permit for such additional time as may be necessary in the event the removal of material to the extent indicated in the approval operation plan is not completed. The process for extension shall be the same as outlined for the review and authorization of the initial special use permit.
- f. No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation of said mined or disturbed area.
- g. The operator may be required to pay an annual fee to cover the cost of inspections and additional meetings of the Planning Commission as may be established by the Township Board.
- h. No processing or storage of earth solids other than those extracted directly from the property shall be allowed, unless specifically authorized in the special use permit.
- i. No equipment, machinery or other related items not routinely used in the regular operation occurring on the property shall be stored thereon unless specifically authorized by the special use permit.
- j. Upon transfer of the special use permit, the transferee shall provide updated information in the application of the Weesaw Township Zoning Ordinance and the Planning Commission shall thereafter review the information in the same manner.
- k. The Planning Commission may impose as an additional condition of the special use permit regulations for hours of operation, blasting hours, noise levels, dust control measures, and traffic not preempted by part 632 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.63201 to 324.63223, however such regulations shall be reasonable in accommodating customary mining operations.

6. Bonding. The Township Board may require such bond, as deemed necessary, to insure that the requirements are fulfilled, and may revoke permission to operate at any time specified conditions are not maintained.

7. Liability Insurance. The Township Board may require liability insurance to be preconditioned to the commencement of operations, maintenance in full force and effect

of insurance shall be a pre-condition to the right to continue operations. The applicant shall provide binders for personal injury and property damage insurance for the project to be carried by an insurance company licensed to do business in the State of Michigan during all times which any reclamation is left to be done, and during all times any machinery and/or equipment remains on the site, or any structures, equipment or improvements to be removed on the site, said insurance to contain a hold harmless clause regarding the liability of the Township during any reclamation phase.

8. Review Standards

a. In addition to all applicable review standards for special land uses, as provided in Section 13.3, the Planning Commission shall apply the standards set forth in existing Michigan court decisions and may consider the following in determining that no serious consequences shall result from the proposed activity, based on the following considerations:

- (1) The relationship of extraction and associated activities with existing land uses.
- (2) The impact on existing land uses in the vicinity of the property, based on credible evidence.
- (3) The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
- (4) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
- (5) The impact on other identifiable health, safety, and welfare interests in the local unit of government.
- (6) The overall public interest in the extraction of the specific natural resources on the property.
- (7) The effect of such removal in causing a safety hazard, creating erosion problems, or altering the groundwater table.
- (8) The potential for such removal to cause the creation of sand blows, stagnant water pools, or swampy areas.
- (9) The effect of such removal on the environment and the natural topography, and the potential destruction of any natural resources.
- (10) Potential traffic congestion and problems because of trucks or other vehicles or means utilized to haul and transport the materials removed.
- (11) Truck routes shall be directed away from residential streets and utilize county primary roads wherever possible.

9. Cost Benefit Analysis

a. The Township may perform a Cost Benefit Analysis to weigh the value of the material against the potential negative impacts of the operation in the proposed location to determine whether very serious consequences will result. The analysis may be prepared by the Planning Commission, or by a contracted outside expert.

b. In determining whether very serious consequences would result from the extraction, by mining, of natural resources, the standards set forth in *Silva v Ada Township*, 416 Mich 153 (1982), shall be applied and all of the following factors may be considered in the Cost Benefit Analysis, if applicable:

- (1) The relationship of extraction and associated activities with existing land uses.
- (2) The impact on existing land uses in the vicinity of the property.

- (3) The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
- (4) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
- (5) The impact on other identifiable health, safety, and welfare interests in the local unit of government.
- (6) The overall public interest in the extraction of the specific natural resources on the property.

[AMENDED 9/8/2014]

S. Open air business.

1. The lot area used for parking, display, or storage shall be a dust-controlled surface and shall be graded and drained so as to dispose of all surface water.
2. Access driveways shall be located at least one hundred (100) feet from the nearest right-of-way line of any intersecting street or seventy five (75) feet from the nearest edge of any other driveway.
3. Lighting for parking and outdoor storage areas shall be shielded to prevent light from spilling onto any residential district or use property line.
4. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.

T. Outdoor storage, display, and sale of farm implements and commercial construction equipment.

1. The lot area used for parking, display, or storage shall be a dust controlled surface and shall be graded and drained so as to dispose of all surface water.
2. Access driveways shall be located at least one hundred (100) feet from the nearest right-of-way line of any intersecting street or seventy five (75) feet from the nearest edge of any other driveway.
3. Lighting for parking areas or outdoor storage areas shall be shielded to prevent light from spilling onto any residential district or use.
4. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.

U. Private noncommercial and public recreation areas or community recreation centers.

1. The use shall be located on property with direct access to a public street.
2. Any outdoor activity areas shall be set back a minimum of fifty (50) feet from any residential use or district.
3. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential use or district.
4. Access driveways shall be located at least one hundred (100) feet from the nearest right-of-way line of any intersecting street or seventy five (75) feet from the nearest edge of any other driveway.

V. Production, refining, or storage of petroleum or other flammable liquids.

1. Access driveways shall be located at least one hundred (100) feet from the nearest right-of-way line of any intersecting street or seventy five (75) feet from the nearest edge of any other driveway.
2. The principal and accessory buildings and structures shall not be located within one thousand (1,000) feet of any residential use or district.

W. Recycling centers.

1. A six (6) foot fence or wall shall be constructed along the rear and sides of the lot, capable of keeping trash, paper, and other debris from blowing off the premises.
2. The principle and accessory buildings and structures shall not be located within two hundred (200) feet of any residential use or district property line.

X. Restaurants, exclusive of drive-through facilities.

1. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
2. Access driveways shall be located no less than one hundred (100) feet from the nearest right-of-way line of any intersecting street or seventy five (75) feet from the nearest edge of any other driveway.

Y. Restaurants with drive-through facilities.

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of ten (10) stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property or parking spaces by vehicles not using the drive-through portion of the facility.
2. In addition to parking space requirements, at least three (3) parking spaces shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.
3. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
4. Access driveways shall be located no less than one hundred (100) feet from the nearest right-of-way line of any intersection street or seventy five (75) feet form the nearest edge of any other driveway.

Z. Salvage yards, Junk yards.

1. Requests for a special land use approval for establishment of a salvage or junk yard shall also require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and/or recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.
2. The site shall abut and have suitable access to a paved county primary road to ensure safe, direct transport of salvage to and from the site.
3. No portion of the storage area shall be located within one thousand (1,000) feet of any residential use or district, or any church, school, park, or cemetery.
4. Any outdoor storage area shall be completely enclosed by a fence or wall at least six (6) feet in height constructed of a sturdy, durable material and sufficiently opaque to ensure

that salvage is not visible from outside the storage area. The fence or wall shall have a minimum of two (2) non-transparent gates not exceeding forty-eight (48) feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or streets. Said fence or wall shall be of uniform appearance and continuously maintained in good condition and shall contain only approved signs.

5. Stored materials shall not be stacked higher than ten (10) feet and shall be stored in a manner that is not visible from adjoining properties or rights-of-way. In no case shall salvage or junk be stored at a height exceeding the height of the storage area fence or wall.
6. The fence or wall enclosing the storage area shall meet all applicable building setback requirements for the zoning district.
7. A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator.
8. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
9. All portions of the storage area shall be accessible to emergency vehicles.
10. Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty (20) foot wide continuous loop drives separating each row of vehicles.
11. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
12. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
13. The property shall be a minimum of six (6) acres.
14. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight hours.
15. No chemicals or potentially hazardous substances from such operations shall be disposed of on-site or leaked or deposited onto or into the soil or ground.
16. The Planning Commission may impose other conditions which have a reasonable relationship to the health, safety and general welfare of Weesaw Township. These conditions can include a provision for an annual inspection by the Zoning Administrator to ensure continuing compliance with the above standards.

AA. Shooting or Hunt Clubs.

1. Minimum lot area shall be forty (40) acres.
2. A minimum setback of two hundred fifty (250) feet for each required yard shall be maintained for all structures, shooting ranges, and similar uses.
3. Rifle, pistol, and archery ranges shall provide adequate backstop facilities.
4. Shall be located no closer than one thousand three hundred twenty (1,320) feet from any adjacent residential use or R-2 or R-3 property line.
5. Shall provide a buffer of at least three (3) rows of evergreens ten (10) feet on center in staggered rows along all property lines.

BB. Storage buildings as a principle use.

1. Minimum lot area shall be two (2) acres.
2. All width and setback requirements of the district shall be met.
3. No business, home occupation, or other use, except storage, shall be conducted within the building.

CC. Vehicle repair.

1. The principal and accessory buildings and structures shall not be located within one hundred (100) feet of any residential use or district property line.
2. Minimum lot area shall be twenty thousand (20,000) square feet and minimum lot width shall be one hundred (100) feet.
3. All equipment and activities associated with vehicle repair operations, except those in incidental use, such as air hoses, shall be kept within an enclosed building.
4. Inoperative vehicles left on the site shall be stored within an enclosed building or in an area screened by an opaque fence not less than six (6) feet in height. Such fence shall be continuously maintained in good condition.
5. Storage of vehicle components and parts, trash, supplies, or equipment outside of a building is prohibited, except in designated and approved storage areas screened from view of adjoining properties and streets.
6. No chemicals or potentially hazardous substances from such operations shall be disposed of on-site or leaked or deposited onto or into the soil or ground.
7. Access driveways shall be located at least one hundred (100) feet from the nearest right-of-way line of any intersecting street or seventy five (75) feet from the nearest edge of any other driveway.
8. Where adjoining residentially zoned property a solid wall or fence, six (6) feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.

DD. Vehicle service stations.

1. Minimum lot area shall be (20,000) square feet and minimum lot width shall be one hundred (100) feet.
2. Pump islands shall be a minimum of fifteen (15) feet from any public right-of-way or lot line.
3. All equipment and activities associated with vehicle service operations, except those in incidental use, such as air hoses, shall be kept within an enclosed building.
4. Storage of vehicle components and parts, trash, supplies, or equipment outside of a building is prohibited.
5. If retail sales of convenience goods are conducted on the premises, parking for such uses shall be computed and provided separately for that use.
6. Canopy roofs shall be permitted to encroach into any required yard, provided that a minimum setback of five (5) feet is maintained, and further provided that the fascia of such canopy is a minimum of (10) feet above the average grade.
7. Access driveways shall be located at least one hundred (100) feet from the nearest right-of-way line of any intersecting street or seventy five (75) feet from the nearest edge of any other driveway.
8. Where adjoining residentially zoned property, a solid wall or fence, six (6) feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.

EE. Vehicle wash establishment, either self-serve or automatic.

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of fifteen (15) stacking spaces for an automatic wash facility shall be provided. For self-service establishments, each stall shall have at least two (2) stacking spaces at the entrance and one (1) space at the exit.
2. Vacuuming activities, if outdoors, shall be at least one hundred (100) feet from any residential district line. Wash bays for self-service establishments shall be located at least fifty (50) feet from any residential use or district property line.
3. Should self-service wash bays be located with openings facing an adjacent street, they shall be screened and such screening shall be continuously maintained in good condition.
4. Only one (1) access driveway shall be permitted on any single street. Access driveways shall be located no less than one hundred (100) feet from the nearest right-of-way line of any intersecting street or seventy five (75) feet from the nearest edge of any other driveway.
5. Where adjoining residentially zoned property, a solid wall or fence, six (6) feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.

FF. Veterinary hospitals and veterinary clinics.

1. Runs, exercise areas, pens or other outdoor areas where animals are kept shall meet the requirements for kennels, as provided in this Chapter.

GG. Wireless communications tower.

1. Minimum lot size shall be the same as that of the district in which the tower is located.
2. The tower shall be set back from all lot lines a minimum distance equal to the height of the tower. In Residential Districts, towers shall be setback a minimum of two hundred (200) feet or the height of the tower, whichever is greater, from all lot lines.
3. All buildings, structures, and guy wires shall meet the minimum setback requirements of the Zoning District.
4. A security fence at least six (6) feet in height shall be constructed around the tower and supports.
5. All parking and drives shall be surfaced with compact gravel.
6. New tower facilities shall be required to accommodate multiple users in order to minimize the number of separate towers and individual locations throughout the township. As a condition of approval, the applicant shall provide evidence that construction of the tower will accommodate collocation of additional antennas for future users.
7. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission, that no existing tower or structure can accommodate the applicants proposed antenna.

HH. Raising and Keeping of Farm Animals Not Considered Household Pets.

1. The raising and keeping of animals not considered household pets shall include those as described in Section 2.13.B, except hogs.
2. No storage of manure, or odor or dust producing materials or use, shall be permitted within one hundred (100) feet of any adjoining lot line.
3. No building housing animals shall be located closer than fifty (50) feet to any lot line.
4. Animals are permitted as follows:

- a. The minimum area upon which one (1) animal may be kept shall be two (2) acres. One (1) additional animal may be kept for each additional one (1) acre over two (2) acres, up to a maximum of eight (8) animals on ten (10) acres.
- b. On parcels in excess of ten (10) acres, the Planning Commission may waive the limitation on the number of animals, provided it is determined that due to the size of the parcel, natural features, or other similar conditions there will be no negative impact upon existing or future neighboring property owners.

CHAPTER 14
ZONING BOARD OF APPEALS

SECTION 14.1 MEMBERSHIP

- A. Continuation of Present Zoning Board of Appeals.

The Zoning Board of Appeals existing at the time of adoption of this Ordinance shall perform its duties and exercise its powers as provided in the Zoning Act.

- B. Composition and Terms

The Zoning Board of Appeals shall consist of five (5) members appointed by the Township Board for three (3) year terms. One (1) member shall be from the Planning Commission, and one (1) may be from the Township Board. The Chairman of the Zoning Board of Appeals shall not be an elected official.

- C. Alternate Members

Up to two (2) alternate members may be appointed by the Township Board for three (3) year terms. If two (2) alternate members have been appointed, they may be called on a rotating basis, as they are available to sit as regular members of the Zoning Board of Appeals in the absence of a regular member from one (1) or more meetings. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals. An alternate member shall only serve to discuss or vote upon a case in the absence of a regular member or upon the conflict of interest of a regular member.

- D. Vacancies

Any vacancies in the Zoning Board of Appeals shall be filled by appointment by the Township Board for the remainder of the term.

- E. Officers

The Zoning Board of Appeals shall annually elect its own Chairman, Vice Chairman and Secretary.

SECTION 14.2 MEETINGS

- A. Meetings

All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times as the Zoning Board of Appeals may determine. All hearings conducted by the Zoning Board of Appeals shall be open to the public. The Secretary to the Board or their representative shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. Three (3) members of the Zoning Board of Appeals shall constitute a quorum for the conduct of its business. The Zoning Board of Appeals shall have the power to subpoena and require the

attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

B. Hearings

The Zoning Board of Appeals shall make no decision regarding a variance except after a hearing is conducted by the Zoning Board of Appeals. Notice shall be given in accordance with the Zoning Act.

SECTION 14.3 JURISDICTION

The Zoning Board of Appeals shall not have the power to make any change in the terms of this Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, and to authorize a variance as defined in this Chapter and the laws of the State of Michigan. The Zoning Board of Appeals shall have the authority to hear appeals from a decision made in respect to any special land use or planned unit development. The powers of the Zoning Board of Appeals include:

A. Hearing of Appeals

To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or any other administrative official in carrying out or enforcing the provisions of this Ordinance.

B. Granting of Variances

A variance from the specific requirements of this Ordinance may be granted by the Zoning Board of Appeals in accordance with the requirements and procedures of this Chapter.

C. Zoning Ordinance Interpretation

The Zoning Board of Appeals may interpret the provisions of this Ordinance to carry out the intent and purposes of the Zoning Ordinance where the meaning of the provision is uncertain.

D. Granting of Temporary Uses and Buildings

1. The Zoning Board of Appeals may permit, upon proper application, temporary uses not otherwise permitted in the district. Such temporary uses shall not exceed a duration of twelve (12) months, however, the Zoning Board of Appeals may grant one (1) extension, of up to twelve (12) months, when appropriate.
2. The Zoning Board of Appeals, in granting permits for temporary uses, shall do so under the following conditions:
 - a. The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district, nor on the property where the temporary use is permitted.
 - b. The granting of the temporary use shall be issued in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of the temporary permit.
 - c. All setbacks, lot coverage, off-street parking, lighting and other requirements shall be made at the discretion of the Zoning Board of Appeals.
 - d. The use shall be in harmony with the general character of the district.

- c. Details of site circulation and access design, including:
 - (1) Indication of street right-of-way, pavement widths and pavement type;
 - (2) Names of abutting public roads, proposed access driveways and parking areas, and existing and proposed pedestrian/bicycle paths; and
 - (3) Written verification of access easements or agreements, if applicable.

C. Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in the opinion of the officer or body, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. This restraining order may be granted by the Zoning Board of Appeals or Circuit Court on application or notice to the officer or body from whom the appeal is taken and due cause shown.

D. Decisions

- 1. The concurring vote of a majority of the membership of the Board shall be required to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board is required to pass, or to effect a variation in the ordinance.
- 2. All decisions of the Zoning Board of Appeals shall become final five (5) days after the date of entry of an order, unless the Zoning Board of Appeals shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal rights.

E. Record of Actions

For each decision of the Zoning Board of Appeals, a record shall be prepared. The record shall include, at a minimum, the following items:

- 1. Description of the applicant's request.
- 2. The Zoning Board of Appeal's motion and vote.
- 3. A summary or transcription of all relevant material and evidence presented at hearing; and,
- 4. Any conditions attached to an affirmative decision.

F. Appeals to Circuit Court

The decision of the Zoning Board of Appeals shall be final. However, a person having an interest affected by the decision of the Zoning Board of Appeals may appeal to the Circuit Court. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the Township or Zoning Act. The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals, or may remand the decision to the Zoning Board of Appeals for further hearings or action.

G. Resubmission

No variance request that has been decided by the Zoning Board of Appeals shall be submitted for reconsideration within one (1) year from the date of the original application, unless the Zoning Board of Appeals finds that at least one of the following conditions exist:

1. That the conditions involving all of the reasons for the original denial have been significantly altered.
2. That new conditions or circumstances exist which change the nature of the original request.

SECTION 14.5 CONDITIONS OF APPROVAL

- A. The Zoning Board of Appeals may impose reasonable conditions in conjunction with approval of an appeal, variance, or any other decision which they are required to make.
- B. Conditions shall be imposed in accordance with the Zoning Act, and related to the standards by which the decision is reached.

SECTION 14.6 VARIANCE PROCEDURES

A. Authority for Variances

The Zoning Board of Appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Ordinance relating to the construction, equipment, or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done.

B. Granting of Non-Use Variances

A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district;
2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties;
3. That the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
5. The variance will not impair the intent and purpose of this Ordinance.

6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

C. Use Variances

The Zoning Board of Appeals shall not have authority to grant use variances.

**CHAPTER 15
ADMINISTRATION**

SECTION 15.1 ZONING ADMINISTRATOR

A. Authority

Except where herein otherwise stated, the provisions of this Ordinance shall be administered by the Zoning Administrator, or such other official or officials as may be designated by the Township Board. The Zoning Administrator shall have the power to:

1. Grant Zoning Permits;
2. Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this Ordinance;
3. Issue and serve appearance tickets on any person with respect to any violation of this Ordinance where there is reasonable cause to believe that the person has committed such an offense; and
4. Perform such other functions necessary and proper to enforce and administer the provisions of this Ordinance.

SECTION 15.2 PERMITS

A. Zoning Permits

1. No building, structure, or sign shall be erected, altered, or moved unless a Zoning Permit shall have been first issued.
2. No Zoning Permit shall be issued for the erection, alteration, or use of any building or structure, or for the use of any land which is not in accordance with all provisions of this Ordinance.
3. No vacant land shall be used and no existing use of land shall be changed to a different class of use unless a Zoning Permit is first obtained for the new or different use.

B. Building Permits

1. No building, structure, or commercial sign shall be erected, altered, moved, or substantially repaired unless a building permit shall have been first issued for such work, in accordance with Township policy (see policy manual).
2. No building permit shall be issued for the erection, alteration, or use of any building or structure or for the use of any land which is not in accordance with all provision of this Ordinance and all necessary county, state, and federal permits.
3. The holder of every building permit for the construction, erection alteration, repair, or moving of any building or structure shall notify the Building Inspector immediately upon completion of the work authorized by the permit for a final inspection.

C. Certificate of Occupancy

1. No vacant land shall be used and no existing use of land shall be changed to a different class of use unless a Certificate of Occupancy is first obtained for the new or different use.
2. No building, structure, or portion thereof which is hereafter erected shall be occupied or used unless and until a Certificate of Occupancy shall have been issued for such building or structure by the Building Department.

SECTION 15.3 ENFORCEMENT

A. Violations

1. Any person, firm, or corporation, or any owner of any building, structure, or premises, or part thereof, where any condition in violation of this Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation, shall be guilty of a civil infraction, for which the fine shall be not less than one hundred (100) dollars nor more than five hundred (500) dollars for the first offense and not less than five hundred (500) dollars nor more than one thousand (1,000) dollars for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, and expenses provided by law. For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided however, that offenses committed on subsequent days within a period of one (1) week following the issuance of a citation for a first offense shall all be considered separate first offenses. Each day during which any violation continues shall be deemed a separate offense.
2. Any building or structure which is erected, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and is in violation of any of the provisions thereof, is hereby declared to be a public nuisance per se.
3. Each day that the violation occurs or continues shall be deemed a separate offense.
4. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

B. Performance Guarantees

1. As a condition of approval of a private street, site plan review, special land use, or planned unit development, the Planning Commission or Township Board, whichever is designated as the approving authority, may require a financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as “improvements,” may include, but shall not be limited to, roadways, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items.
2. Performance guarantees shall be processed in the following manner:
 - a. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit an itemized estimate of the cost of the required improvements which are subject to the performance guarantee, which shall then be reviewed by the Zoning Administrator. The amount of the performance guarantee shall be one hundred percent (100%) of the cost of purchasing materials and installing the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies.
 - b. The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township.
 - c. Upon receipt of the required performance guarantee, the Zoning Administrator shall issue a building permit for the subject development or activity, provided it is

in compliance with all other applicable provisions of this Ordinance and other applicable Ordinances of the Township.

- d. The Zoning Administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.
- e. When all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
- f. A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

SECTION 15.4 AMENDMENTS

The Township Board is authorized and empowered to cause this Ordinance to be amended, supplemented or changed. Proposals for amendments may be initiated by the Board, the Planning Commission or by petition of one or more owners of property in Weesaw Township affected by such proposed amendment. The procedure for amending this Ordinance shall be as follows and in accordance with the requirements of the Zoning Act:

- A. Each petition shall be submitted to the Zoning Administrator, accompanied by a fee as established by the Township Board, and then referred to the Clerk to set a hearing date and publish notices.
- B. The Planning Commission shall conduct a public hearing, the notice of which shall be given in accordance with the Zoning Act.
- C. The Planning Commission shall make a recommendation which shall be transmitted, along with the request and its findings, to the Township Board and to the Berrien County Planning Commission for review, as provided in the Zoning Act. The County shall, within thirty (30) days of receiving the request make a recommendation to the Township. If a recommendation is not received within such time period, a recommendation of approval shall be presumed.
- D. The Township Board may hold additional hearings if it considers it necessary. Notice of such hearing shall be given in accordance with the Zoning Act.
- E. No petition for rezoning or other ordinance amendment that has been disapproved shall be resubmitted within one (1) year of the date of disapproval, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon resubmission.

SECTION 15.5 FEES

The Township Board shall by resolution establish fees for the administration of this Ordinance, including all proceedings and matters that may arise hereunder. A listing of current fees shall be available for review by the public during Township office hours at the Township Hall. Such fees may be changed from time to time by resolution of the Township Board. The applicant shall pay all applicable fees upon the filing of any application, any proposed site plan or any other request or application under this ordinance and as to which a fee is prescribed. In addition to regularly established fees, the Township Board may also require an applicant to submit to the Township, prior to Township review of an application or proposed site plan, an amount of money determined by the Township to be a reasonable estimate of the fees and costs which may be incurred by the Township in reviewing and acting upon any such application or related matters. The Township shall not charge fees or assess costs to the applicant for the time expended by Township employees, except when authorized under appropriate provisions of the Freedom of Information Act, or for incidental costs and expenses, but may charge or assess the applicant for all other reasonable costs and expenses incurred by the Township during and in connection with the review process and other related proceedings, whether or not the application is granted either in whole or in part. Such costs and expenses to be charged or assessed to the applicant, for reimbursement of the Township's reasonable costs and expenses, may include but shall not be limited to township attorney fees, township engineering fees, costs and fees for services of outside consultants, fees and expenses of other professionals who may assist the Township, costs and fees for studies and reports pertaining to the matters in question, special meeting costs and other reasonable costs and expenses. Such monies shall be retained by the Township for reimbursement of such costs and expenses. Any monies paid or deposited by an applicant that are not used or spent by the Township shall be refunded.

SECTION 15.6 STOP WORK ORDERS

A. Notice to Owner

Upon notice from the Zoning Administrator or Building Inspector that any use is being conducted or that any work on any building or structure is being prosecuted contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work and shall state the conditions, if any, under which work or the use will be permitted to resume.

B. Unlawful Continuance

Any person who shall continue to work in or about the structure, land or building or use it after having been served with a stop work order, except such work as that person is directed to perform to remove a violation, shall be in violation of this Ordinance.

SECTION 15.7 SURVEYS

If the Zoning Administrator, in the performance of his or her duties under this Ordinance, or the Planning Commission, Zoning Board of Appeals, or Township Board pursuant to their zoning review and approval powers under this Ordinance, shall deem it necessary that a survey be done by a professional surveyor or engineer for the property at issue, including a written drawing and stakes set on property boundaries or corners, in order to ensure that all requirements of this Ordinance will be met, such survey and related information may be required by the Township and shall be paid for and provided by the property owner or applicant and no zoning compliance permit, building permit or other Township permit(s) shall be issued or approved until and unless such survey and related information has been provided by the Township.

CHAPTER 16
TITLE

SECTION 16.1 **TITLE**

This Ordinance shall be known, and may be cited as, the Weesaw Township Zoning Ordinance.

SECTION 16.2 **INTENT**

This Ordinance, enacted under the authority of the Zoning Act, is intended to insure that uses of land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision of transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare and to conserve property values.

SECTION 16.3 **SCOPE**

A. Interpretation and Application

In its interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare. It is not intended by this Ordinance to impair or interfere with any other existing provision of law or Ordinance. However, where this Ordinance imposes a greater restriction than is required by existing Ordinance or by rules, regulations, or permits, the provisions of this Ordinance shall control.

B. Vested Rights

Nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein; and all rights are hereby declared to be subject to such subsequent amendment, change or modification hereof as may be necessary to the preservation or protection of public health, safety, and welfare.

SECTION 16.4 **SEVERABILITY**

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 16.5 **EFFECTIVE DATE**

Public hearing having been held hereon, the provisions of this Ordinance are hereby adopted, and this Ordinance shall take effect on the 5th day of December, 2007.

SECTION 16.6 **REPEAL OF PRIOR ORDINANCE**

The Zoning Ordinance adopted by Weesaw Township on October 5, 1977, and all amendments thereto, is hereby repealed. The repeal does not affect any act done or offense committed, or any liability, penalty, forfeiture, or punishment acquired thereunder. The repeal includes the Official Zoning Map of the Weesaw Township Zoning Ordinance, which is hereby adopted as a part of this Ordinance.

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