

**WAKESHMA TOWNSHIP
KALAMAZOO COUNTY, MICHIGAN**

WAKESHMA TOWNSHIP ZONING ORDINANCE

ORDINANCE NO. 41

Adopted: October 6, 2014

Effective: October 24, 2014

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An ordinance to establish zoning districts, provisions and regulations for the Township of Wakeshma pursuant to Act 110 of the Public Acts of 2006 (the Michigan Zoning Enabling Act), as may be amended, and any other applicable laws; to set forth regulations and minimum standards for the use and protection of lands and structures within each district; to establish provisions for the administration, enforcement and amendment of this ordinance; to establish a Zoning Board of Appeals; to designate a violation of the Ordinance as a municipal civil infraction subject to civil fines and other sanctions; and to repeal all ordinances or parts of ordinances in conflict herewith, including the existing Wakeshma Township Zoning Ordinance adopted in 1966 and all amendments thereof.

**THE TOWNSHIP OF WAKESHMA,
KALAMAZOO COUNTY, MICHIGAN,**

ORDAINS:

SUMMARY AND USER GUIDE

This Summary and User Guide is intended to provide a general orientation to the format and organization of the Zoning Ordinance, to make the document easier to understand and use. Like every municipal zoning ordinance, this Zoning Ordinance regulates the development and use of land by dividing the Township into "zoning districts", sometimes commonly referred to as "zones". This Zoning Ordinance establishes three such zoning districts as noted in Section 4.1, and as shown on the Zoning Map.

This Zoning Ordinance is based on what is sometimes called a "permissive" zoning concept; that is, land in each zoning district can be used only for the land uses and activities that are specifically designated in the Zoning Ordinance as permissible in that district. The permissible land uses within each zoning district are further divided into either "permitted uses" or "special land uses". A use listed as a "permitted use" in a zoning district is recognized as being harmonious with other such uses within the same district, and therefore generally requires no prior land use approval. A "special land use" is recognized as requiring prior land use approval, pursuant to a public hearing and approval standards specified in the Zoning Ordinance, to make sure the particular location proposed for the land use will not adversely impact other property, or the general health, safety and welfare of the community. Chapters 5–7 of this Zoning Ordinance indicate the permitted uses and special land uses for each of the zoning districts.

Chapter 9 specifies other requirements applicable in each zoning district, such as the minimum requirements for buildable property ("lot") in each zoning district, and "setback" and other location requirements for buildings and other structures in each zoning district.

Some provisions of the Zoning Ordinance are intended to generally apply throughout the Township, such as the "General and Supplementary Provisions" in Chapter 3. Other chapters of this Ordinance regulate specific matters that may also apply in one or more zoning districts, or throughout the Township, as indicated to be applicable. Such provisions of the Zoning Ordinance include the following chapters and subject matters:

- Chapter 12---Parking and Loading Spaces
- Chapter 13---Signs and Outdoor Advertising Structures
- Section 3.13---Accessory Buildings/Structures and Accessory Uses

So, to determine whether property can be used for a particular land use or activity, and what regulations may apply to that property/land use, a person using this Zoning Ordinance will generally go through the following steps:

- ❖ Step 1: find the property on the official Zoning Map and determine the “zoning district” in which the property is located.
- ❖ Step 2: make sure the property meets the minimum “lot” requirements for that zoning district, and is therefore “buildable” pursuant to the Schedule in Chapter 9; or is otherwise a legal buildable “nonconforming lot” pursuant to Section 15.8 (Chapter 15 also includes special provisions pertaining to “nonconforming” uses and building/structures lawfully established before the enactment of this Ordinance).
- ❖ Step 3: refer to the proper Chapter covering that zoning district from Chapters 5–7; and determine whether the intended land use is listed there as either a “permitted use” or a “special land use”.
- ❖ Step 4a: if the intended land use is listed as a “permitted use” in the zoning district in which the property is located, check Section 11.2 to see whether that use is subject to a “site plan review” requirement. If so, other provisions of Chapter 11 will apply.
- ❖ Step 4b: if the intended land use is listed as a “special land use” in the zoning district in which the property is located, review Chapter 10 for information about applying for special land use approval and the “standards” that must be shown to be complied with before the Planning Commission can grant such approval, after a public hearing. Section 10.3 specifies what are sometimes called the general standards that apply to all special land uses; but Section 10.7 includes additional specific standards that are required of certain special land uses. Note: the “site plan review” requirements of Chapter 11 apply to all special land uses.
- ❖ Step 5: for every permitted use or special land use check whether additional regulations are applicable from either the Chapter 3 “General/Supplementary Provisions” or other chapters dealing with specific subjects, such as the chapters listed above in the bullet points.

User hint: many words and terms used in this Zoning Ordinance are given a specific definition in Section 2.2. It is therefore important to refer to Section 2.2 to determine whether a particular word or term has a specific definition for purposes of this Ordinance. Any word or term not specifically defined in this Ordinance is defined in accordance with its most applicable customary or common meaning (see Section 2.1).

Finally, other parts of this Zoning Ordinance address what may be called “administrative” matters, including the following chapters/sections on the indicated subjects:

- Chapter 17---Zoning Board of Appeals

- Chapter 18---Administration and Enforcement of Zoning Ordinance
- Section 18.4---Violations and Sanctions
- Chapter 19---Amendments and District Changes

These chapters are not generally relevant to determining how a particular land use is regulated by the Zoning Ordinance, but may apply in certain circumstances. For example, a potential applicant for a “variance” should review Chapter 17 addressing the limited authority of the Zoning Board of Appeals to grant variance relief, and otherwise covering the authority and functions of that board.

Disclaimer: this Summary and User Guide is intended to provide a general orientation to the format and organization of the Zoning Ordinance. Many zoning questions can be answered upon simple reference to the appropriate parts of this Zoning Ordinance; but some questions will require knowledgeable assistance from someone such as the Zoning Administrator, and sometimes from legal counsel with special expertise in zoning matters. In short, although this Summary and User Guide is not intended to substitute for knowledgeable assistance to address a particular zoning question or issue where required, it will hopefully make this Zoning Ordinance easier to understand and use.

CHAPTER 1

SHORT TITLE, PURPOSE AND SCOPE

- 1.1 **SHORT TITLE:** This ordinance shall be known as the Wakeshma Township Zoning Ordinance.
- 1.2 **PURPOSE:** This ordinance is intended to regulate the use of land and structures for the purposes authorized by the Michigan Zoning Enabling Act, as applied to Wakeshma Township, based on the Wakeshma Township 1991-2010 Land Use Plan adopted in 1991 and extended and redesignated in 2010 pursuant to the Michigan Planning Enabling Act as the Wakeshma Township 2010-2030 Master Plan. This ordinance, consistent with the Master Plan, is intended to preserve and encourage agriculture as the dominant land use in the Township; discourage non-farm residential development outside of the unincorporated Village of Fulton, and generally limit residential development in Fulton to low-density single-family residences; provide for low-impact commercial land uses primarily in the Village of Fulton, and strictly limit non-farm industrial land uses.
- 1.3 **SCOPE:** This Ordinance is not intended to repeal, abrogate, annul or interfere with existing provisions of other laws or ordinances except those specifically repealed by this ordinance, or with any private restrictions placed upon property by covenant, deed or other private agreement unless repugnant hereto. Where this ordinance imposes a greater restriction than is imposed or required by such laws, other ordinances, or private restrictions, the provisions of this ordinance shall control.

CHAPTER 2

RULES OF TEXT INTERPRETATION; DEFINITIONS OF TERMS

2.1 **RULES OF TEXT INTERPRETATION:** The following rules of interpretation apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In the case of any difference of 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 phrases "used for", "arranged for", "designed for", "intended for", "maintained for", and "occupied for" are all intended to be synonymous phrases.
- G. The word "person" includes an individual, corporation, partnership, incorporated association, trust, joint venture, or any other entity of any kind, or a combination thereof.
- H. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and" or "or", the conjunction shall be interpreted as follows:
 - 1. "and" indicates that all the connected items, conditions, provisions or events shall apply;
 - 2. "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- I. The word "he" shall mean he or she.
- J. The provisions of this Ordinance are intended to impose the minimum requirements adopted to promote the public health, safety, and general welfare, and shall be interpreted and applied accordingly.

- K. Any reference in this Ordinance to a specific law is intended to also include any amendment of that law, and any subsequently enacted superseding law on the same subject matter.
- L. Any word or term not specifically defined in Section 2.2 or elsewhere in this Ordinance shall be considered to be defined in accordance with its most applicable customary or common meaning.

2.2 **DEFINITIONS:** For the purposes of this Ordinance, certain terms and words are defined as follows:

- Accessory Building: a building subordinate to, and located on the same lot with a main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main building.
- Accessory Structure: a structure (which is not a building) subordinate to and located on the same lot with a principal building, the use of which is incidental to that of the principal building, and which is not attached to the principal building. (This definition shall include swimming pools, satellite/cable television dish antennas and related apparatus, and conventional television antenna towers and related apparatus.)
- Accessory Use: a use of a building, lot or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot. This term shall include the use of a single-family residence by an occupant of that residence for a home occupation to give instruction in a craft or fine art within the residence.
- Agriculture: see definition of "Farming".
- Alley: a passage or way open to public travel generally affording a secondary means of vehicular access to abutting lots and not intended for general traffic circulation.
- Alter (or alteration): a change in the supporting members of a building or structure; or an addition, diminution, change in use or conversion of a building or structure; or the removal of a building or structure from one location to another.
- Apartment House: a building used and/or arranged for rental occupancy, or cooperatively owned by its occupants, having three or more dwelling units, and with a yard, compound, service, or utilities in common.
- Basement: that portion of a building below the first floor joists, at least half of whose clear ceiling height is below the level of the adjacent ground.

- Bed and Breakfast Inn: a use which is subordinate to the principal use of a single family dwelling in which transient guests are provided a sleeping room and board in return for compensation for a period not to exceed seven consecutive days.
- Biofuel: Any renewable fuel product, whether solid, liquid, or gas, that is derived from recently living organisms or their metabolic by-products and that meets applicable quality standards, including, but not limited to, ethanol and biodiesel; but not including methane or any other fuel product from an anaerobic digester. For purposes of this term "ethanol" means a substance that meets the ASTM international standard in effect on July 19, 2011 as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.
- Building: an independent structure having a roof supported by columns or walls, intended and/or used for shelter or enclosure of persons, animals or property of any kind. When any portion thereof is completely separated from every other part by division walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.
- Building Codes/Construction Codes: the building, mechanical, plumbing, electrical and property maintenance code(s) in effect in Wakeshma Township.
- Building Official/Inspector: the person or persons appointed by the Township Board or State to inspect buildings for conformance to the building codes, and to administer and enforce the building codes in this Township.
- Building or Structure Height: the vertical distance measured from the average grade at the building or structure foundation to the highest point of the building roof or structure.
- Building Line: the line adjacent to a building and parallel to the front lot line, formed by the junction of the outer surface of the building or enclosure wall with the finish grade or surface of the adjacent ground.
- Care Home: includes rest and nursing homes, convalescent homes and boarding homes for the aged, established to render nursing care for chronic or convalescent patients, but excludes facilities for care of active or violent patients such as mental patients, alcoholics, senile psychotics, or drug addicts.
- Child Day Care Center: a facility, other than a private residence, properly registered or licensed under 1973 Public Act 116, as amended (MCL 722.111 et. seq), receiving one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. A Child Day Care Center includes a facility which provides care for not less than two consecutive weeks,

regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child Day Care Center is not, however, intended to include any of the following:

- o a Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than 3 hours per day for an indefinite period, or not greater than 8 hours per day for a period not to exceed 4 weeks during a 12 month period.
 - o a facility operated by a religious organization where children are cared for not greater than 3 hours while persons responsible for the children are attending religious services.
- Child (Family) Day Care Home: a private home properly registered or licensed under 1973 Public Act 116, as amended (MCL 722.111 et. seq.) in which 1-6 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. This term shall include a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.
- Child (Group) Day Care Home: a private home properly registered or licensed under 1973 Public Act 116, as amended, (MCL 722.111 et. seq.) in which 7-12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related by blood, marriage, or adoption. This term shall include a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.
- Contiguous: adjoining; actually touching at a point or common boundary line.
- District: an area within which certain uses of land and buildings are permitted and all others are prohibited; yards and other open spaces are required; lot areas, building height limits, and other requirements are established. This term means the same thing as "zone", and "zoning district".
- Dwelling (or residence): a building, mobile home, or premanufactured or precut dwelling structure or portion thereof arranged or designed and used for complete living accommodations; but in no case shall a recreational vehicle, automobile chassis, tent or portable building be considered as a dwelling. In case of mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for the purpose of this Ordinance and shall comply with the provisions hereof relative to dwellings. Garage space, whether in an attached or detached garage, shall not be

deemed a part of a dwelling for purposes of complying with the area requirements in this Ordinance.

- Dwelling, Single Family: a building containing one dwelling unit designed for residential use.
- Dwelling, Semi-Detached: one of two buildings, arranged or designed as dwellings located on abutting lots; separated from each other by a party wall, without openings, extending from the basement floor to the highest point of the roof, along the dividing lot line; and separated from any other building or structure by space on all other sides.
- Dwelling, Two Family (Duplexes): a building containing two separate dwelling units.
- Dwelling, Multiple Family: a building containing three or more dwelling units (an apartment house).
- Dwelling Unit: a building or portion thereof arranged or designed for permanent occupancy by not more than one family for living purposes and having cooking facilities.
- Earth Removal, Quarrying, and Gravel Processing: the digging and/or screening and washing of soil, sand, gravel, rock, minerals, clay or other earthen material from a land surface primarily for carrying on a business or manufacturing operation for the purpose of sale, exchange, processing or manufacture; but not including ready-mix concrete and asphalt plants except as otherwise provided for in this Ordinance. This term is not intended to include grading or filling incidental to improvement of the land.
- Essential Services: the erection, construction, alteration or maintenance by public utilities or public authorities, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wire mains, drains, sewers, pipes, conduits, cables, towers, emergency alarm/call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. This term is not intended to include any facilities or structures within the scope of the terms "public utility service facilities", or "wireless communications support structure", or "wind energy structure", as defined in this Ordinance.
- Family: one or more persons related by blood, marriage, or adoption, including those related as foster children or servants, and not more than one additional unrelated person, occupying a dwelling unit and living as a single, nonprofit housekeeping unit; or, a collective number of individuals living together in one dwelling under one head, whose relationship is of a permanent and distinct domestic character, and cooking as a single

housekeeping unit, but not including any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or other organization which is not a recognized religious order, and also not including a group of individuals whose association is temporary and resort-seasonal in character or nature.

- Farm: any parcel of land lawfully used for "farming" as defined in this Ordinance. Farm may include a dwelling and accessory farm structures within the property boundaries, and the storage of crops produced thereon or on other premises by the farm operator, as well as equipment used in farming operations.
- Farming: the production for commercial purposes and sale for the purpose of obtaining a profit in money by the raising, harvesting, and selling of crops and forage; by feeding or breeding or management and sale of, or the produce of livestock, poultry, fur-bearing animals, or honey bees; or for dairying and the sale of dairy products of animal husbandry, or riding stable or any combination thereof; or any other agricultural, horticultural or floricultural use such as fruits, plants, ornamental trees, timber, shrubs, nursery stock, and vegetables.
- Farm Market: an area and/or permanent or temporary building/structure where transactions between a farm market operator and customers take place as a seasonal or year round operation, and where at least 75% of the products marketed for sale (as measured by retail space used to display products) are produced on and by a farm under the same ownership or control as the farm market. A farm product or commodity sold at a farm market may be unprocessed, or processed to convert it into a value-added product that is more marketable for direct sales (such as by washing, sorting, packaging, canning, drying, freezing, or otherwise preparing the product for sale). A farm market may include other activities and services directly related to the farm products sold at the farm market (such as a cider mill accessory to an apple producer's farm market), but shall not otherwise include indirectly related or unrelated activities and services to attract and entertain customers and/or facilitate retail trade transactions unless such activity or service is otherwise permissible in the zoning district at issue and has been granted all required zoning approvals.
- Farm Structure: any building or structure, other than a dwelling, moved upon, maintained, used or built on a farm, which is customarily used on farms of that type for the pursuit of their agricultural activities.
- Floor Area: the total enclosed floor area of a structure used for residential purposes, excluding the floor area of uninhabitable basements, garages, accessory buildings, attics, breezeways, and porches. The floor area for manufacturing, business or commercial activities shall include customer facilities, showcase facilities, and sales facilities.

- Foster Care (Small Group) Facility: a residential facility, other than a child or adult day care home, licensed by the state pursuant to 1979 Public Act 218, as amended (MCL 400.701 et seq.) or 1973 Public Act 116, as amended (MCL 722.111 et seq.), which provides residential services for 6 or fewer persons under 24-hour supervision or care.
- Foster Care (Large Group) Facility: a residential facility, other than a child or adult day care home, licensed by the state pursuant to 1979 Public Act 218, as amended (MCL 400.701 et seq.), or 1973 Public Act 116, as amended (MCL 722.111 et seq.), which provides residential services for 7-20 persons under 24-hour supervision or care.
- Frontage: the length of the front property line of the lot, lots or tract of land abutting a public street (or a lawfully established private road).
- Game and Fish Preserve: an area where fish and game are raised for the purpose of providing hunting and fishing privileges to the general public for a fee and which are licensed as such by the State of Michigan.
- Gasoline Service Station: a building or lot, or portions thereof, used and limited in function to retail sale of gasoline, oil, grease, anti-freeze, tires, batteries and automobile accessories, and such services as lubrication, washing, polishing and other minor servicing of motor vehicles.
- Health Department: the Kalamazoo County Health and Community Services Department, or comparable governmental agency.
- Home-Based Business: an occupation or business activity conducted as an accessory use to the principal residential use of the same property, which has all of the following characteristics:
 - A. All aspects of the business activity conducted on the premises are conducted solely by the person or persons residing on the premises.
 - B. All aspects of the business activity on the premises take place within an enclosed building (the dwelling or an otherwise permissible garage or other accessory building) on the same premises as the dwelling.
 - C. The business activity on the premises is clearly incidental and secondary to the residential use of the premises.
 - D. All goods sold from the premises are either created on the premises or incidental to services sold on the premises.

- E. Noise, smoke, odor, electrical disturbance, lighting, or other objectionable characteristics associated with the business activity are not discernible beyond the boundaries of the premises upon which the business activity is conducted.
 - F. There is no outdoor storage on the premises associated with the business activity; provided that where such storage is inherent in the otherwise permissible business activity, and by its nature cannot be reasonably accommodated within a building or structure, an outdoor storage area may be located to the rear of the building in which the business activity is conducted with screening sufficient to effectively block all view of the storage area from adjoining properties and roads.
 - G. Off-street parking is provided on the premises sufficient to accommodate all customers of the business activity on the premises, in addition to the residents of the premises.
- Institutional or Public Use: places of worship, public or private schools teaching academic subjects, public parks and recreation areas, cemeteries, libraries, and other public or semi-public uses, including governmental administration or service buildings.
 - Kennel: property where five or more dogs are kept/boarded, which includes dogs of the owner or lessee of the property, excluding puppies up to six months of age.
 - Lot: a metes and bounds parcel of land or a lot in a plat (including a "unit" within a site condominium development) adjoining a public street, or a private road as specifically allowed by this Ordinance, and separated from other parcels by legal description, deed or subdivision plot; provided that the owner of contiguous lots may have as many of the contiguous lots considered as a single lot for the purpose of this Ordinance as the owner so elects, or as may otherwise be lawfully required to render the property buildable in conformance with this Ordinance, and in such cases the group of lots shall constitute a "Zoning Lot" (see definition below).
 - o Lot Area: the total horizontal area within the boundary lines of a lot, including the area of the adjoining street right-of-way within the boundaries of the lot.
 - o Lot Depth: the average horizontal distance from the front lot line to the rear lot line.
 - o Corner Lot: a lot situated at the intersection of two or more streets.

- o Double Frontage Lot: a lot other than a corner lot having frontage on two more or less parallel streets.
- o Lot Frontage: the length of the front lot line of a lot.
- o Interior Lot: a lot other than a corner lot with one lot line fronting on a street.
- o Lot Lines: any line dividing one lot from another or from the street right-of-way, and thus constituting property lines bounding a lot.
- o Front Lot Line: that portion of a lot or parcel of property abutting the right-of-way of a public street or a lawful private road. In the case of a corner or double frontage lot, the front lot line shall be that line separating the lot from that street which is designated as the front street in the plat and/or in the request for a building or zoning compliance permit.
- o Rear Lot Line: that lot boundary line which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line not less than ten feet long lying farthest from the front lot line and wholly within the lot. In any case when this definition does not apply the Zoning Administrator shall designate the rear lot line.
- o Side Lot Line: any lot boundary line not a front lot line or a 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 or lots is an interior lot line.
- o Lot of Record: a lot the dimension and configuration of which are shown on a plat map recorded in the Office of the Register of Deeds for Kalamazoo County, or a lot or parcel described by metes and bounds, the accuracy of which is attested to by a professional engineer or land surveyor (so registered and licensed by the State of Michigan) and likewise so recorded with the county.
- o Lot Width: the horizontal distance between the side lot lines, measured at the two points where the building line intersects the side lot lines.
- o Zoning Lot: one or more contiguous lots or portions of lots in single ownership, where the grouping of such lots for zoning purposes is required or allowed by this Ordinance; and in such circumstances the outside perimeter of the grouping constitutes the applicable front, rear, and side lot lines for purposes of this Ordinance.
- Mobile Home: a portable vehicular unit primarily designed for year-round dwelling purposes, built upon a chassis, equaling or exceeding twelve feet in width and sixty feet in length, and not motorized or self-propelled. Modular, prefab, pre-cut or sectional dwelling units which require being transported to

the site separately in two or more sections, and to which such major elements as the heating system or a substantial portion of the siding are installed after transport, and which are non-movable after erection, shall not be considered a mobile home, if same complies with the Township Building Code and the provisions of this Ordinance. Recreational Vehicles, as defined in this Ordinance, are not mobile homes.

- Non-Conforming Use: a use which lawfully occupied a building/structure or land prior to the enactment of this Ordinance or amendments thereto, and that does not conform to the use regulations of this Ordinance for the zoning district in which it is located.
- Non-Conforming Building/Structure: a building/structure or portion thereof lawfully existing prior to the enactment of this Ordinance or amendments thereto, and which does not conform to the provisions (e.g. set-backs, height, lot coverage) of this Ordinance for the zoning district in which it is located.
- Non-Conforming Lot of Record: a lot or parcel lawfully existing of record prior to the enactment of this Ordinance and which does not conform to the provisions of this Ordinance (i.e. area, width, etc.).
- On-Farm Biofuel Production Facility (Type I): A facility designed and intended to be used to produce biofuel, and having all of the following characteristics:
 - A. The facility is located on land used in the commercial production of farm products.
 - B. The facility has a designed annual production capacity of not more than 100,000 gallons of biofuel.
 - C. The facility is located at least 100 feet from the boundary of any contiguous property under different ownership.
 - D. The facility meets all otherwise applicable setback requirements.
 - E. At least 75% of the feedstock for the facility is produced on the farm where the facility is located, on an annual basis.
 - F. At least 75% of the biofuel or other product/byproduct of the facility is used on the farm where the facility is located, on an annual basis.
- On-Farm Biofuel Production Facility (Type II): A facility designed and intended to be used to produce biofuel, and having all of the following characteristics:
 - A. The facility is located on land used in the commercial production of farm products.

- B. The facility has a designed annual production capacity of not more than 100,000 gallons of biofuel.
 - C. The facility is located at least 100 feet from the boundary of any contiguous property under different ownership.
 - D. The facility meets all otherwise applicable setback requirements.
 - E. Less than 75% of the feedstock for the facility is produced on the farm where the facility is located, on an annual basis.
 - F. Less than 75% of the biofuel or other product/byproduct of the facility is used on the farm where the facility is located, on an annual basis.
- On-Farm Biofuel Production Facility (Type III): A facility designed and intended to be used to produce biofuel, and having all of the following characteristics:
 - A. The facility is located on land used in the commercial production of farm products.
 - B. The facility has a designed annual production capacity of at least 100,000 gallons but not more than 500,000 gallons of biofuel.
 - C. The facility is located at least 100 feet from the boundary of any contiguous property under different ownership.
 - D. The facility meets all otherwise applicable setback requirements.
 - Permitted Use: a use designated as a "permitted use" in a zoning district is recognized as a use of land and buildings which is harmonious with other permitted uses within the same district. A permitted use is subject to any applicable provisions of this Ordinance, but is otherwise considered a lawful use not requiring prior review and zoning use approval.
 - Place of Worship: a building whose primary purpose is to provide a place where persons regularly assemble for religious worship which is maintained and controlled by a religious body organized to sustain public worship for a local congregation.
 - Principal Building: a building in which is conducted the principal use of the lot upon which it is situated.
 - Principal Use: the main, primary or predominant use of a lot.
 - Public Utility Service Facilities: gas or electric substations, regulator stations, including buildings accessory thereto, and other public utility service buildings or structures not constituting "essential services" as defined in this Ordinance.

- Recreational Vehicle: a portable vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for temporary lodging. This term includes folding campers, truck-mounted campers, and motor homes, but does not include mobile homes.
- Roadside Stand: an area or temporary structure designed and used for the display and sale of fresh garden produce, fruit, or other farm products actually grown on the premises upon which the roadside stand is located.
- Setback Line (Minimum): the line which pertains to and defines those minimum building/structure setback lines which are established parallel to the front, side and rear lot lines and within which setback areas no part of a building or structure shall project or be located, except as otherwise provided by this Ordinance.
- Setback (Building or Structure): the minimum horizontal distance required to exist between a building or structure (including steps or porches), and the front, side or rear lot line. The required setback area is that area encompassed by the respective lot lines and setback lines.
- Sign: any structure or device using words, numerals, figures, designs, or trademarks intended to inform or attract the attention of persons.
- Sign Area: the entire area within a regular geometric form or combination of regular forms comprising all of the display area of a sign and including all of the elements of the matter displayed; but not including frames and structural supports not bearing advertising matter.
- Sign, Outdoor Advertising: a sign which calls attention to a business, commodity, service, entertainment, or other activity, conducted, sold, or offered elsewhere than on the premises upon which the sign is located.
- Single Ownership: ownership of a lot where the owner does not own adjoining property; provided, the owner of any number of contiguous lots or portions of lots may be considered as the owner of a single "zoning lot" for the purpose of this Ordinance, or as may otherwise be lawfully required by this Ordinance.
- Site Condominium: a land development consisting of not less than two single-family units (lots) established in conformance with the Michigan Condominium Act (PA 59 of 1978 as amended) and this Ordinance.
- Special Land Use: a use designated as a "special land use" in a zoning district is recognized as possessing characteristics of such unique or special nature (relative to location, design, size, public utilities needs, and other characteristics) as necessitating prior review and approval for the particular

proposed location pursuant to approval standards specified in this Ordinance, to safeguard the general health, safety and welfare of the community.

- Story: that portion of a building included between the surface of any floor and the surface of the floor next above it, or of the ceiling above it. A basement shall be counted as a story if its ceiling is over six feet above the average level of the finished ground surface adjoining the exterior walls of such story, or if it is used for business or dwelling purposes.
- Street (or Road): a dedicated public right-of-way other than an alley, over which the public has the right of vehicular access.
- Structure: anything constructed, assembled or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on or in the ground. The word "structure" includes fences which are more than 50% solid, decks, gazebos, swimming pools and walls, but does not include wires and their supporting poles or frames of electrical or telephone utilities, or to service utilities entirely below the ground, and also does not include conventional mailboxes, and residential swing sets and other child play structures situated on the ground but not constructed into the ground.
- Variance: a modification of the literal provisions of a dimensional requirement or other non-use requirement, as opposed to the use of the property, which the Zoning Board of Appeals has limited authority to grant when there are "practical difficulties" preventing compliance with the strict letter of the Ordinance arising from an exceptional or extraordinary condition of the individual property for which the variance relief is requested and the variance standards specified in this Ordinance are otherwise met.
- Wind Energy Structure: an accessory structure using wind to generate electrical power intended to primarily serve the needs of the occupants of the premises on which the structure is located, rather than to generate power for a utility grid serving other premises.
- Wireless Communications Support Structure: A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-support lattice tower, guyed tower, water tower, utility pole, or building; provided that for purposes of this Ordinance this term shall not include any tower or other support structure under 50' in height that is owned and operated by a federally-licensed amateur radio station operator or that is used exclusively for receive-only antennas.

A tower or other structure within the scope of this definition shall not be considered to be either "Essential Services" or "Public Utility Service Facilities" for purposes of this Ordinance, as those terms are defined in this Ordinance.

- Yard: a general term applied to the space on a lot which contains a building or structure or group of buildings/structures, lying between the building/structure or group of buildings/structures and the nearest respective lot line facing each building/structure.
 - Front Yard: an open space extending across the full width of a lot between the front lot line and the building setback line. The depth of such yard shall be the shortest horizontal distance between the front lot line and the building setback line, measured at right angles.
 - Rear Yard: an open space extending across the full width of a lot between the rear lot line and the nearest line of a building, porch or projection thereof. The depth of such yard shall be the shortest horizontal distance between the rear lot line and the nearest point of the building, porch or projection thereof.
 - Side Yard: an open space extending on each side of the lot from the required front yard to the required rear yard. The width of such yard shall be the shortest distance between the side lot lines and the nearest point of a building, porch or projection thereof.
- Yard, Required Side-Rear-Front: an open space of prescribed width or depth, adjacent to a lot line, on the same land with a building or structure group of buildings/structures, lying in the area between the building/structure or group of buildings/structures and the nearest lot line, and which is unoccupied and unobstructed from the ground upward, except for plants, trees, shrubs, fences, and as otherwise provided herein.
- Zone: (see District).
- Zoning Administrator: the person or persons appointed by the Township Board to administer and enforce this Ordinance; may also be known as the Zoning Inspector or Zoning Enforcement Officer.
- Zoning Compliance Permit: an authorization issued by the Zoning Administrator indicating that the proposed use and location of a building or structure conforms with the pertinent provisions of the Ordinance, including the setback and yard requirements.
- Zoning Lot: see definition in the defined Lot-related terms.

CHAPTER 3

GENERAL AND SUPPLEMENTARY PROVISIONS

- 3.1 **ZONING AFFECTS ALL STRUCTURES AND LAND AND THE USE THEREOF:** No structure, land or premises shall hereafter be used or occupied and no building shall be erected, moved, removed, reconstructed, extended or altered, except in conformity with this Ordinance (and all other applicable ordinances, codes, laws and regulations).
- 3.2 **BUILDING PERMITS AND CONSTRUCTION CODES:** See the Wakeshma Township construction code ordinances and the construction codes referenced therein for the regulations applicable to building permits, occupancy permits, and other regulations applicable to the construction and occupancy of buildings and other structures.
- 3.3 **ZONING COMPLIANCE PERMITS:** No building or structure, other than an accessory structure, shall be constructed, enlarged, altered, occupied, moved, reconstructed, or otherwise used in whole or in part upon any premises until a zoning compliance permit has first been issued by the Zoning Administrator certifying that the location of the building or structure and the intended use thereof is in compliance with the provisions of this Ordinance. This zoning compliance permit requirement shall apply even if a building or structure is exempt from a building permit requirement pursuant to the Township Building Code.
- 3.4 **PRINCIPAL USE/PRINCIPAL BUILDING:** No lot shall contain more than one principal building or use; provided that groups of otherwise lawful multiple-family dwelling buildings under single ownership on the same lot may be collectively considered a single principal use. In the site plan review process the Planning Commission may designate as a principal use collectively, and/or as principal buildings, groups of retail business buildings under single ownership, and groups of other buildings under single ownership integrally engaged in the otherwise lawful primary use on the subject property.
- 3.5 **REQUIRED LOT, YARD, AREA OR OTHER SPACES:** All lots, yards, and other open spaces shall comply with the lot, yard, and area requirements of the zoning district in which they are located (see Chapter 9), and are also subject to the following:
- A. No lot, yard, parking area or other space shall be so divided, altered or reduced as to make it less than the minimum required under this Ordinance; if already less than the minimum required, it shall not be further divided, altered or reduced.

- B. No yard or other open space provided about any building for the purpose of complying with the requirements of this Ordinance shall be considered as a yard or open space for any other building.

3.6 MINIMUM STANDARDS FOR DWELLINGS: A dwelling shall comply with the following standards:

- A. The dwelling shall have a minimum width along each exterior front, side or rear wall elevation of 20 feet with at least one-third of each front, side or rear elevation also having a depth of 20 feet. The word "elevation" shall mean the total length of the front, side or rear wall of a dwelling facing in the same general direction regardless of whether the wall is designed with projections, indentations, or other irregular configurations.
- B. The dwelling shall have a minimum gross floor area in accordance with the requirements of Chapter 9 for the applicable zoning district, and shall have a minimum floor to ceiling height of 7.5 feet.
- C. The dwelling shall be permanently attached to a solid foundation constructed on the site in accordance with the Building Code and having the same perimeter dimensions as the dwelling, which attachment shall also meet all building codes or other applicable state regulations. In the case of a mobile home, the mobile home shall be secured to the premises by an anchoring system or device compatible with those required by the State pursuant to regulations promulgated under Act 96 of the Public Acts of 1987, as amended.
- D. The dwelling shall not have any exposed wheels, towing mechanisms, undercarriage, or chassis. Any space that may exist between the foundation and the ground floor of the dwelling shall be fully enclosed by an extension of the foundation wall along the perimeter of the dwelling.
- E. The dwelling shall be connected to a public sewer and water supply or to private sewer and water facilities approved by the County Health Department.
- F. The dwelling, including any additions, shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof over-hang of not less than six inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage along the sides of the dwelling; with not less than two exterior doors with one being in the front of the dwelling and the other being in either the rear or side of the dwelling, and permanently attached steps connected to the exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling, subject to appeal by an aggrieved party to the Zoning Board of Appeals. Any determination of compatibility shall be based on the standards in this definition of "dwelling" as well as the character of residential development outside of mobile home parks throughout the Township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or departure from the common or standard designed home.

- G. The dwelling shall comply with all pertinent building and fire codes including, in the case of mobile homes, the standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) regulations entitled "Mobile Home Construction and Safety Standards", effective June 15, 1976, promulgated at 24 CFR 3280, and in compliance with such amended standards as from time to time be promulgated. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations allow standards of construction which are less stringent than those imposed by the Building Code, then, and only in that event, the less stringent federal or state standards or regulations shall apply.

The foregoing standards shall not apply to a mobile home located in a licensed mobile home park, except to the extent allowed or required by law.

- 3.7 USED DWELLINGS: All the dwelling standards in Section 3.6 of this Ordinance apply to a used dwelling which is to be installed in the Township. A zoning compliance permit shall be obtained for any used dwelling proposed to be installed in the Township. A certificate indicating that the dwelling complies with all pertinent building and fire codes shall be submitted with the application for a zoning compliance permit. In the case of a mobile home or other pre-manufactured type of housing subject to construction and safety standards promulgated by the United States Department of Housing and Urban Development, the certificate must indicate that the dwelling meets the most recent applicable HUD standards. The required certificate shall be signed by a building inspector currently registered with the State of Michigan pursuant to 1986 Public Act 54, as may be amended.
- 3.8 BASEMENT DWELLINGS: The use of a basement of a partially built building as a dwelling is prohibited in all zones. The use of a basement more than four feet below grade in a completed building for sleeping quarters or a dwelling unit is prohibited unless there are two means of direct access to the outside; provided that where one wall is entirely above grade level of the yard adjacent to the wall and access or egress to the out-of-doors is provided through the wall, the structure shall not be considered a basement dwelling. It is not the intent of this

ordinance to prevent the construction or occupancy of earth sheltered housing complying with all applicable requirements.

- 3.9 CONTROL OF HEAT, GLARE, FUMES, DUST, NOISE, VIBRATION AND ODORS: Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise or vibration beyond the lot on which the use is located.
- 3.10 LIGHTING LIMITATIONS: The illumination of any buildings or uses of land shall be designed and operated so that the source of light shall not be directed upon adjacent properties or streets. All exterior lighting fixtures associated with new construction shall be designed and maintained in a downward-facing configuration.
- 3.11 SCREENING: Every commercial or industrial use occupying land immediately adjacent to a residential district or a conforming residential use shall have a screening area separating the commercial or industrial use from the adjoining residential district or use. The screen shall be in the form of either a wall, fence, or evergreen planting which is compact and maintained in good condition at all times. The height of the screen shall not be less than five feet, except where the screen would interfere with traffic safety, in which case it may be not less than three feet in height.
- 3.12 OPEN SPACE PRESERVATION DEVELOPMENT:
- A. In order to comply with Section 506 of the Michigan Zoning Enabling Act (2006 Public Act 110), notwithstanding the generally applicable minimum lot frontage/lot width and minimum lot area per dwelling unit requirements in Chapter 9 of this Ordinance (Schedule of Lot, Yard and Area Requirements), land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units that could otherwise be developed on the land under existing ordinances, laws, and rules, on not more than 50% of the land, if all of the following apply:
1. The land is zoned at a density equivalent to 2 or fewer dwelling units per acre; or, if the land is served by a public sewer system, 3 or fewer dwelling units per acre.
 2. Not less than 50% of the land area will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land.
 3. The development does not depend upon the extension of a public sewer or public water supply system, unless development of the

land without the exercise of the development option provided by this provision would also depend upon such an extension.

4. The development option provided pursuant to this section has not previously been exercised with respect to the subject property.
- B. The development of land under this section is subject to all other applicable ordinances, laws, and rules, including but not limited to:
1. The provisions of this Ordinance that are not in conflict with and preempted by Section 506 of the Michigan Zoning Enabling Act (MCL 123.3506).
 2. The Land Division Act (MCL 560.101 et seq).
 3. Any ordinance regulating the division of land, the platting of land into subdivisions, or the creation of a site condominium.
 4. Rules relating to suitability of groundwater for on-site water supply for land not served by public water.
 5. Rules for on-site sewage disposal for land not served by public sewers.
- C. As used in this section the term "undeveloped state" means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. This term does not include a golf course; but may include a recreational trail, picnic area, children's play area, greenway, or linear park.
- D. A residential development proposed pursuant to this section shall be submitted for site plan review and a determination as to whether the development complies with the open space preservation/clustering provisions of 2006 PA 110, and all other applicable laws and ordinances.

3.13 GENERAL REQUIREMENTS FOR ACCESSORY BUILDINGS/STRUCTURES AND ACCESSORY USES: The following regulations are applicable to accessory buildings/structures and accessory uses in all zoning districts throughout the Township, except as to those requirements that are stated to be applicable only in a specific zoning district.

- A. Except as may be specified to the contrary elsewhere in this Ordinance, in all zoning districts there is no specific limitation on the number of accessory buildings/structures per zoning lot.
- B. Accessory buildings/structures shall be located only in the rear yard or side yard, except in the following circumstances:

1. Accessory farm structures may also be located in the front yard with a setback from the front lot line (street right-of-way) of at least the minimum applicable front yard setback required for a principal building/structure.
 2. Other accessory buildings/structures may be located in the front yard with a setback of at least 200' from the front lot line (street right-of-way).
- C. All accessory buildings and structures, including private garages, whether attached or detached, are subject to the lot, yard and area requirements specified in Chapter 9 of this Ordinance.
 - D. All accessory buildings/structures, and accessory uses, shall be located and maintained under the same ownership as the principal use.
 - E. All accessory buildings/structures, and accessory uses, shall be located and maintained on the same lot as the principal use, or on a contiguous lot under single ownership, which shall include a lot separated from the main lot by a street.
 - F. All accessory buildings/structures, and accessory uses, shall be clearly incidental and subordinate to the principal use with which it is commonly associated, and shall be aesthetically compatible with the associated principal use.
 - G. An accessory building shall not include provisions for or be used for the lodging or sleeping of human beings.
 - H. If an accessory use is carried on within the structure containing the principal use, the gross floor area utilized by the accessory use (except garages and off-street loading facilities) shall not be greater than:
 1. For a single unit dwelling, 20% of the gross floor area, or 300 square feet, whichever is less.
 2. For any principal use other than a single unit dwelling, 10% of the gross floor area.
 - I. Accessory buildings/structures may be used only for purposes accessory to uses allowed in the zoning district in which it is located.

Where a building/structure is initially constructed as the principal structure, but is subsequently to be rendered an accessory building/structure due to other construction (such as a dwelling), all such construction shall be proceeded with so as to fully comply with all applicable requirements in this Chapter. (The intent of this provision is to require "accessory" type buildings to be sited so as to permit sufficient space for

development of a future principal structure in compliance with all applicable regulations of this Ordinance).

3.14 WIND ENERGY STRUCTURES: Any lot in any zoning district may have located thereon one wind energy structure, as defined in this Ordinance, as an accessory use to the residential or other conforming principal use of the premises, subject to compliance with all of the following requirements and regulations:

- A. On-site Use. The wind energy structure shall be designed and intended to primarily serve the premises on which the structure is located.
- B. Permissible Type.
 - 1. A tower-mounted type of wind energy structure is permissible on any lot in any zoning district, subject to the applicable height limitation determined pursuant to subsection C.1. herein.
 - 2. A roof-mounted type of wind energy structure is permissible on any lot in any zoning district, subject to the applicable height limitation determined pursuant to subsection C.2. herein.
- C. Height.
 - 1. The total height of a tower-mounted wind energy structure shall not exceed 120 feet, including the tip of the rotor blade at its highest point (measured from ground grade), or such lesser height as is necessary to comply with the setback/location requirements in subsection 4 herein. In addition, the rotor blade shall have a ground clearance of at least 20 feet when the blade tip is at its lowest point.
 - 2. The total height of a roof-mounted wind energy structure shall not exceed 10 feet above the peak height of the roof on which the structure is located.
- D. Setback/Location. The wind energy structure shall have a setback from all lot lines equal to at least the height of the structure, including the tip of the rotor blade in its highest position. Any part of an anchoring system for the wind energy structure, such as guy wire anchors, may be located within this required setback distance, but shall comply with all minimum setbacks for accessory structures in the pertinent zoning district as specified in Chapter 9 of this Ordinance. A tower-mounted wind energy structure and its anchoring system shall also be located in compliance with Section 3.13 (accessory structure location).
- E. Noise and Other Potential Interferences. The wind energy structure shall not generate total noise exceeding 55 dB(A), or 35 dB at any octave frequency centered below 250 Hz, as measured at or beyond every

boundary line of the subject premises; shall not produce any physical vibrations that are humanly perceptible at or beyond the lot boundaries; and shall not cause any electromagnetic interference at or beyond the lot boundaries.

- F. Construction Codes. The wind energy structure and all anchoring systems shall comply with all applicable building and electrical code requirements.
- G. Safety Standards. The wind energy structure shall be designed and operated so as to include all of the following in addition to such features as may be required by the codes referenced in the preceding paragraph:
1. an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over-speeding of the rotor blades.
 2. underground electrical wiring connections, except where underground placement would violate an applicable code requirement, or is not feasible due to specific characteristics of the installation or the subject premises.
- H. Visual Impact. All wind energy structure installations shall use measures to reduce the visual impact of the structure to the occupants of adjoining properties and the general public, including all of the following specific measures:
1. all components of the wind energy structure, including any above-ground anchoring system, shall be finished in a non-reflective and non-obtrusive neutral color, which shall be maintained throughout the life of the structure.
 2. a wind energy structure shall not be illuminated or have lighting of any kind; except to the extent mandated by the Federal Aviation Administration or other applicable governmental authority, which shall be shielded to the extent possible to reduce glare and visibility from the ground.
 3. the wind energy structure shall not display lettering, company insignia, advertising, or graphics of any kind on any part of the structure; except non-obtrusive lettering and/or insignia intended to identify the manufacturer in such a manner as to not be visible from any adjoining property or adjoining public right-of-way.
- I. Maintenance and Removal. The wind energy structure and all related systems shall be properly maintained in accordance with the manufacturers recommendations and so as to be operable as designed. The structure shall be dismantled and removed if it is not being properly maintained or if its use for generating electricity has been abandoned.

- J. Pre-installation Administrative Review and Zoning Compliance Permit. Before beginning any on-site work associated with the installation of a wind energy structure the owner of the premises shall submit to the Zoning Administrator sufficient documentation of compliance with all of the requirements of this Section, including any requirements incorporated by reference, and shall obtain a zoning compliance permit for the structure pursuant to Section 3.3 of this Ordinance.

CHAPTER 4

ZONING DISTRICTS AND ZONING MAP

4.1 ZONING DISTRICTS:

For the purpose of this ordinance, Wakeshma Township is hereby divided into the following zoning districts:

- A Agriculture District
- R-1 Single Family Residential District
- MU Multi-Use Overlay District

The location and boundaries of the zoning districts shall be shown on a map entitled Zoning Map, which is hereby made a part of this ordinance to the same extent as if the information on the map were fully described and incorporated herein.

The official Zoning Map shall be in the custody of the Clerk or such other person as may be approved by the Township Board.

4.2 BOUNDARIES OF ZONES: Where uncertainty exists as to the boundaries of any of the zones as shown on the zoning map, the following rules shall apply:

1. Zone boundary lines are intended to be parallel or perpendicular to street, alley, or lot lines, unless such zone boundary lines are fixed by dimensions, as shown on the zoning map.
2. Where zone boundaries are indicated as approximately following street or alley lines or proposed street lines, such lines shall be construed to be such boundaries.
3. Where zone boundaries are so indicated that they approximately follow lot lines and are not more than 25 feet distant therefrom, such lot lines shall be such boundaries.
4. Boundaries indicated as approximately following shorelines or lake or stream beds shall be construed as following such shorelines or beds, and in the event of change in the location of same shall be construed as moving with the shoreline or bed.
5. Where a zone boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on such maps, or described in the text of the ordinance, shall be determined by the use of the map scale shown thereon, and scaled to the nearest foot.
6. If all or any portion of any public street, alley, right-of-way, easement or land which is not included in any zone shall ever revert to or come into private ownership or shall ever be used for any purpose other than a

public purpose, said land shall be subject to all of these regulations which apply within the zone immediately adjacent thereto, or within the most restricted of the immediately adjacent zones, if there be more than one.

- 4.3 PERMISSIVE ZONING CONCEPT: Land uses are allowed in the various zoning districts by express specific designation in this Ordinance. Where a use is not so designated it is prohibited, unless construed by the Zoning Administrator or Zoning Board of Appeals to be sufficiently similar to a use expressly allowed to be considered to be within the intended scope of the expressly allowed use. No land contained within any zoning district within this Township shall be used for any purpose other than those uses specifically allowed in the zoning district in which the building or land is located, except as otherwise specified herein.

Notwithstanding the foregoing, in the adoption of this Ordinance the Township specifically determines that there is no demonstrated need within the Township and/or no appropriate location within the Township for uses that are incompatible with the purposes of this Ordinance and are detrimental to the community, such as landfills, correctional facilities, massage parlors, establishments offering live entertainment involving topless and/or bottomless nudity, and other similar establishments. Nothing in this Ordinance shall be construed as allowing such uses in Wakeshma Township as either permitted uses or special land uses, unless otherwise required by law.

- 4.4 AREAS NOT INCLUDED WITHIN A DISTRICT: In every case where land has not been clearly included within another district pursuant to the Zoning Map and the interpretive rules of this Chapter, such land shall be in the A Agriculture District. Any lands owned by the State of Michigan or otherwise exempt from this Ordinance at the time of adoption, but which subsequently become subject to local zoning, shall be in the A-Agriculture District.

- 4.5 PERMITTED USES: A use listed as a "permitted use" in Chapters 5-7 of this Ordinance is recognized as a use of land and buildings which is harmonious with other such uses which may lawfully exist within the same district (or is designated as a permitted use due to a statutory requirement). A permitted use is subject to the various applicable provisions of this Ordinance, but otherwise is considered to be a lawful use not requiring special or extraordinary controls or conditions.

- 4.6 SPECIAL LAND USES: A use listed as a "special land use" in Chapters 5-7 of this Ordinance is recognized as possessing characteristics of such unique and special nature (relative to location, design, size, impact on other property, public utilities needs, and other similar characteristics) as to necessitate prior public hearing and approval standards, and sometimes approval conditions in order to safeguard the general health, safety and welfare of the community. (Also see Chapter 10).

CHAPTER 5

A-AGRICULTURE DISTRICT

- 5.1 DESCRIPTION OF DISTRICT: This District includes most of the Township lying outside of the unincorporated Village of Fulton. Such land is zoned for agricultural use with the intent that agriculture or other related rural uses will be the principal land uses within the foreseeable future. The regulations for this district are designed to stabilize and protect the essential characteristics of the district without unduly restricting its use solely to that of an agricultural nature. To these ends, development is limited to a low concentration and to those uses that will not be detrimental to agricultural uses. Subdivisions, planned unit developments, site condominiums, and any other form of development involving more than one lot are not allowed in this district.
- 5.2 PERMITTED USES:
- A. Single family dwelling.
 - B. Farming.
 - C. Roadside Stand.
 - D. Farm Market.
 - E. Child (Family) Day Care Home.
 - F. Foster Care (Small Group) Facility.
 - G. Essential services.
 - H. Home-based business.
 - I. On-Farm Biofuel Production Facility (Type I).
- 5.3 SPECIAL LAND USES (must comply with Chapter 10):
- A. Bed and Breakfast Inn.
 - B. Care Home.
 - C. Child (Group) Day Care Home.
 - D. Earth removal, quarrying, and gravel processing.
 - E. Foster Care (Large Group) Facility.
 - F. Game and fish preserve.

- G. Institutional or Public Use.
- H. Kennel.
- I. On-Farm Biofuel Production Facility (Type II or Type III).
- J. Private airfields and landing strips.
- K. Private noncommercial club.
- L. Public utility service facilities.
- M. Wireless Communications Support Structure.

5.4 LOT, YARD AND AREA REQUIREMENTS: Except as provided elsewhere herein, the lot, yard and area requirements shall be as specified in Chapter 9.

5.5 SITE PLAN REVIEW: In accordance with Chapter 11.

5.6 OFF-STREET PARKING REQUIREMENTS: In accordance with Chapter 12.

5.7 SIGNS: In accordance with Chapter 13.

5.8 ACCESSORY BUILDINGS/STRUCTURES AND ACCESSORY USES: In accordance with Section 3.13.

CHAPTER 6

R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

- 6.1 DESCRIPTION OF DISTRICT: This district includes most of the unincorporated Village of Fulton and is intended to be limited to that part of the Township. The regulations for this district are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to low density single family residential use consistent with limited rural type facilities and services.
- 6.2 PERMITTED USES:
- A. Single family dwelling.
 - B. Child (Family) Day Care Home.
 - C. Foster Care (Small Group) Facility.
 - D. Essential services.
 - E. Home-based business.
 - F. Roadside Stand.
- 6.3 SPECIAL LAND USES (must comply with Chapter 10):
- A. Bed and Breakfast Inn.
 - B. Child (Group) Day Care Home.
 - C. Foster Care (Large Group) Facility.
 - D. Public utility service facilities.
- 6.4 LOT, YARD AND AREA REQUIREMENTS: Except as provided elsewhere herein, the lot, yard and area requirements shall be as specified in Chapter 9.
- 6.5 SITE PLAN REVIEW: In accordance with Chapter 11.
- 6.6 OFF-STREET PARKING REQUIREMENTS: In accordance with Chapter 12.
- 6.7 SIGNS: In accordance with Chapter 13.
- 6.8 ACCESSORY BUILDINGS/STRUCTURES AND ACCESSORY USES: In accordance with Section 3.13; provided the keeping of farm animals is not allowed in this residential district as an accessory use, or otherwise, except any premises with a single family dwelling may keep not more than six chickens

(hens only; no roosters) to produce eggs for the non-commercial use by the occupants of the premises, where the chickens are contained on the premises at all times, and where the coop or other facility for the chickens provides humane and sanitary conditions, and noise, odor, or other objectionable characteristics associated with the keeping of the chickens is not discernible beyond the boundaries of the premises.

CHAPTER 7

MU MULTI-USE OVERLAY DISTRICT

- 7.1 DESCRIPTION OF DISTRICT: In consideration of the unsuitability of most of the Township for non-agricultural commercial or industrial uses, or for residential uses other than single-family, this district is designed as an overlay district to accommodate those types of land uses in those portions of the unincorporated Village of Fulton where such uses already exist, or may otherwise be compatible with the residential character of Fulton and the uses allowed in the underlying R-1 Single Family Residential District.
- 7.2 PERMITTED USES:
- A. Any "permitted use" in the underlying R-1 Single Family Residential District, as listed in Section 6.2 of this Ordinance.
 - B. Restaurant or similar eating establishment.
 - C. Retail indoor sales of goods and services.
 - D. Offices, business or professional.
 - E. Two family dwelling (and semi-detached single family dwelling).
- 7.3 SPECIAL LAND USES (must comply with Chapter 10):
- A. Any "special land use" in the underlying R-1 Single Family Residential District, as listed in Section 6.3 of this Ordinance.
 - B. Animal hospital.
 - C. Automobile, boat and marine equipment sales, with no outdoor dismantling of cars/boats or outdoor storage of dismantled cars/boats.
 - D. Automobile repair garage.
 - E. Bank/credit union.
 - F. Child Day Care Center.
 - G. Construction, machinery, heavy equipment and farm equipment sales.
 - H. Contractor's work shop.
 - I. Funeral home.
 - J. Gasoline service station.

- K. Laundromat.
- L. Machine shop.
- M. Manufacturing, compounding, processing, assembling, packaging, or treatment of articles, commodities or merchandise, where all work is carried on within an enclosed building, and where any outdoor storage is limited to not more than 10% of the lot area and is maintained within the rear yard area.
- N. Multiple family dwelling (apartment building); and business office in an apartment building for conducting business incidental to the rental, operation, service and maintenance of the apartment building or buildings.
- O. Printing, lithographics, blueprinting and similar uses.
- P. Warehousing or storage (fully enclosed) of commodities or merchandise, (except animals, commercial explosives, or above or below ground bulk storage of flammable liquids, or gases, unless and only to the extent that such storage of liquids or gases is directly related to energy or heating on the premises).
- Q. Any other commercial or light industrial use not enumerated above which is consistent with the intent and purpose of this district, and is similar in character, nature, and intensity to the enumerated uses or related to such uses, and where all work is carried on within an enclosed building, and which does not emanate noise, vibration, odor, smoke, liquid wastes, or light to such an extent as to be detrimental to surrounding properties.

- 7.4 LOT, YARD AND AREA REQUIREMENTS: Except as provided elsewhere herein, the lot, yard and area requirements shall be as specified in Chapter 9.
- 7.5 SITE PLAN REVIEW: In accordance with Chapter 11.
- 7.6 OFF-STREET PARKING REQUIREMENTS: In accordance with Chapter 12.
- 7.7 SIGNS: In accordance with Chapter 13.
- 7.8 ACCESSORY BUILDINGS/STRUCTURES AND ACCESSORY USES: In accordance with Section 3.13.

CHAPTER 8

RESERVED FOR POTENTIAL FUTURE USE

CHAPTER 9

SCHEDULE OF LOT, YARD AND AREA REQUIREMENTS

<u>Principal Building/Structure</u>	<u>A</u>	<u>R-1</u>	<u>MU</u>
Min. Lot Frontage, Lot Width (ft)	200	125	125
Min. Lot Area (acres or sq. ft.)	1.5 acres	20,000	20,000
Max. Height (ft.)	35 ^{1/}	35 ^{1/}	35 ^{1/}
Max. Coverage of Lot (%)	---	25	100 ^{2/}
Min. Floor Area Per Dwelling Unit (sq. ft.)			
Single Family	900	900	900
Two Family	---	---	900
Multiple Family	---	---	600
Min. Front Yard Setback (ft.)	50	40	40
Min. Side Yard (ft.)	10 ^{3/}	10 ^{3/}	10 ^{3/}
Min. Rear Yard (ft.)	30	30	30
<u>Accessory Buildings/Structures</u>			
Min. Setback (See Section 3.13.B.)	---	---	---
Min. Side Yard (ft.)	5 ^{3/}	5 ^{3/}	5 ^{3/}
Min. Rear Yard (ft.)	5	5	5
Max. Height (ft.)	---	15	15
Max. Coverage (% of rear yard)	---	10 ^{4/}	100 ^{2/}

- 1/ No building or structure shall be erected, reconstructed, or structurally altered to exceed in height the limit designated in this Ordinance for the zone in which such building/structure is located; provided such height limitations may be exceeded by the following structures: flagpoles, chimneys, farm structures, non-commercial television and radio antennas, spires of places of worship, belfries, cupolas, wireless communications support structures (except as otherwise specifically regulated in this Ordinance), domes not used for human occupancy, skylights, water tanks, fire towers, and wind energy structures (except as specifically regulated in this Ordinance). A lawful industrial use may also exceed the otherwise applicable height limitation with respect to smokestacks, cooling towers, roof storage tanks, bulkheads, and other structures necessary for mechanical appurtenances for such uses, provided they are located at least the same distance as the height from any adjoining property lines and do not interfere with aerial navigation or constitute a fire hazard.
- 2/ 100% of lot area excluding area of required side and rear yard setback plus parking area required per Chapter 12 for the principal building or structure.
- 3/ On corner lots, the width of the side yard adjacent to the side street shall be equal to the front yard setback of the lot adjoining the rear of the corner lot. When the lot adjoining the corner lot along the rear line does not front on the side street of the corner lot, the side yard shall not be less than $\frac{2}{3}$ the front yard setback required for that district.
- 4/ With respect to corner lots, the designated percentage maximum coverage for an accessory building shall be the greater of the following:
 - a. % of the area of the rear yard.
 - b. % of the area of that portion of the open portion of the lot lying between (1) a line extending from the front lot line through the side-end of the dwelling or other principal building to the rear lot line, and (2) the side lot boundary line facing that side-end of the dwelling or other principal building.

CHAPTER 10

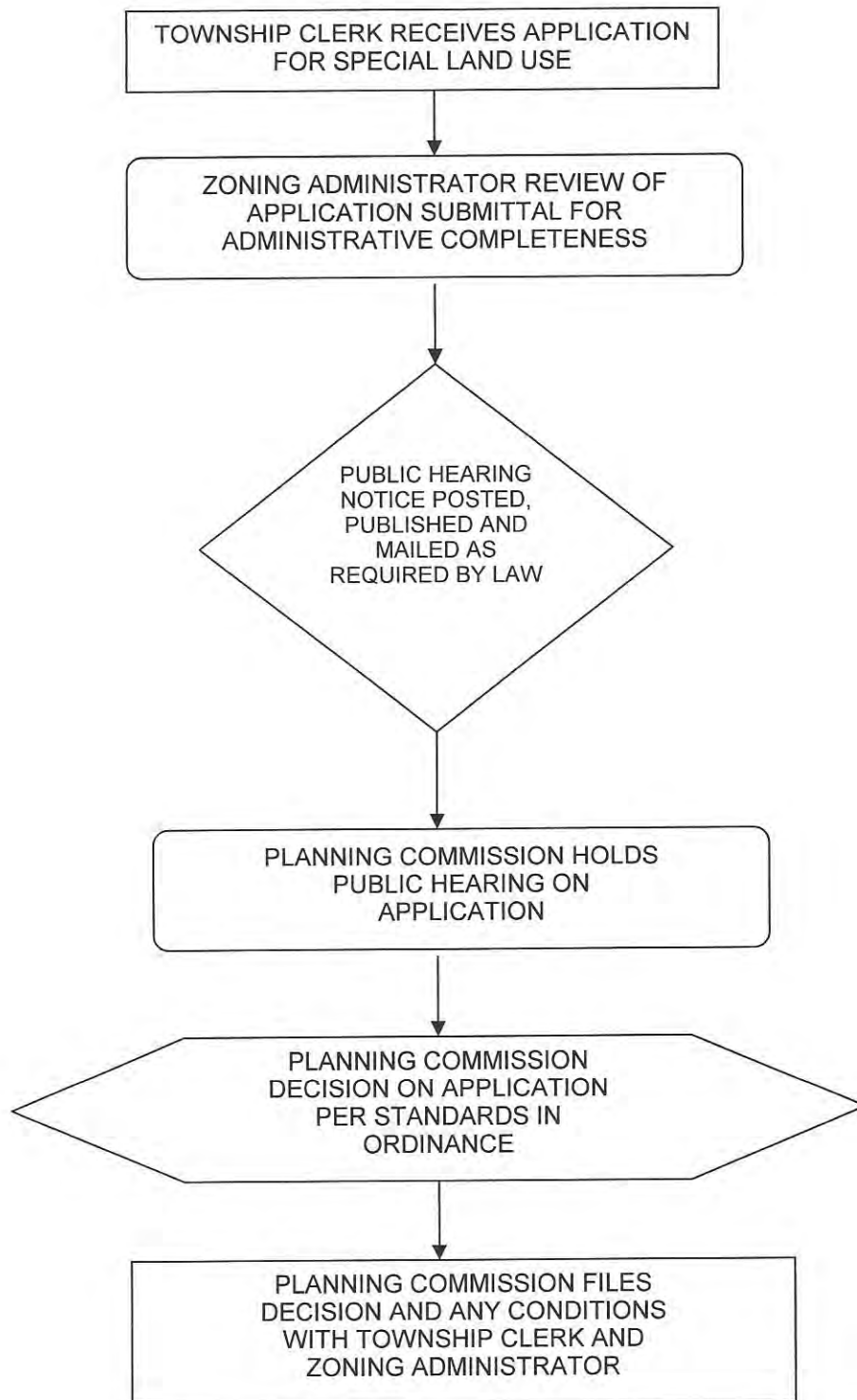
SPECIAL LAND USES

- 10.1 EXPLANATION OF SPECIAL LAND USES. In order to make this Ordinance a flexible zoning control and still afford protection of property values and facilitate orderly and compatible development of property within the Township, the Planning Commission is authorized to approve the establishment of certain uses designated as Special Land Uses within the various zoning classifications in the ordinance. Such special land uses have been selected because of the characteristics of the use which, in the particular zone and location involved, might cause the use to be incompatible with the other uses permitted in such zoning district and accordingly detrimental thereto, without prior review pursuant to approval standards and in appropriate circumstances also approval conditions.
- 10.2 SPECIAL LAND USE PROCEDURE. All applications for special land use approval shall be submitted and processed under the following procedures:
- A. The application shall be filed in triplicate with the Township Clerk, and shall include all of the following:
 - 1. A completed application form, using the special land use application form prescribed by the Township.
 - 2. A site plan substantially complying with the requirements for the content of a final site plan as specified in Section 11.4 of this ordinance.
 - 3. All specifications, data, and other materials on which the applicant intends to rely to show all applicable standards for special land use approval are met.
 - 4. Payment of the fee set by the Township Board for special land use applications.
 - B. The Township Clerk shall promptly refer one copy of the application submittal to the Township Attorney, and one copy to the Zoning Administrator. The Zoning Administrator shall promptly review the submittal to determine whether it is administratively complete, and shall notify the applicant of any deficiencies in the content of the application submittal. An application shall not be processed for public hearing unless and until it is administratively complete as determined by the Zoning Administrator.
 - C. When the Zoning Administrator has determined an application submittal to be administratively complete the Zoning Administrator shall notify the applicant of that determination, and request 7 copies of the complete application submittal (or such other number as the Zoning Administrator

may require). Upon receipt of such copies the Zoning Administrator shall promptly refer individual copies of the administratively complete application to the members of the Planning Commission, the Township Attorney, and to the Township Clerk to be available for public examination.

- D. The Planning Commission shall hold a public hearing on an administratively complete application. The Planning Commission shall review the application subsequent to the public hearing, at the same meeting or at a subsequent meeting, and may require the applicant to provide additional information about the proposed use relevant to any standard for special land use approval specified in this ordinance. The applicant has the burden of proving compliance with all special land use approval standards.
- E. The Planning Commission shall approve a special land use application if the application is in compliance with all applicable standards, other applicable ordinances, state and federal statutes, and any conditions lawfully imposed under the Zoning Ordinance. The Planning Commission's decision shall be incorporated in a statement of findings and conclusions which specifies the basis for the decision and any conditions imposed. The decision of the Planning Commission on a special land use application is a final decision, subject to appeal to a court of competent jurisdiction as authorized by law. The Zoning Board of Appeals does not have jurisdiction to hear an appeal from any decision of the Planning Commission on a special land use application.
- F. An approved special land use is subject to site plan review pursuant to Chapter 11 of this ordinance.

FLOW DIAGRAM FOR SPECIAL LAND USE APPLICATIONS



10.3 STANDARDS FOR SPECIAL LAND USE APPROVAL. An application for special land use approval shall not be approved by the Planning Commission (with or without conditions) unless the Planning Commission finds from the evidence that all of the following standards and requirements are met:

- A. The size, nature and character of the use will be compatible with the other uses and buildings and structures expressly permitted within the zoning district, especially where the location of the use is adjacent to or in the approximate area of dwellings;
- B. The use will be compatible with the natural environment of the area;
- C. The use will not adversely affect the capacities of public services and facilities, and will not cause unreasonable traffic congestion or otherwise specially burden the public streets in the area;
- D. The lot upon which the use is proposed is able to accommodate all off-street parking facilities required by this ordinance;
- E. The use will not in any manner be detrimental or injurious to the use or development of adjacent properties, to the occupants thereof, or to the general neighborhood;
- F. The use will not adversely affect the public health, safety, and general welfare of the community;
- G. The use will be in accordance with the character and adaptability of the land at issue;
- H. The standards applicable to the particular use as specified in Section 10.7 or elsewhere in this Ordinance can and will, in the Commission's judgment, be complied with at all times.

10.4 SPECIAL LAND USE APPROVAL CONDITIONS/PERFORMANCE GUARANTEE.

- A. Basis for conditions: The Planning Commission is authorized to impose conditions on the approval of a special land use, if the Planning Commission determines it has authority to approve the special land use application. Any conditions shall be reasonable and necessary to insure that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, or necessary to protect the natural environment and conserve natural resources and energy, or necessary to insure compatibility with adjacent uses of land, or necessary to promote the use of land in a socially and economically desirable manner. Any such conditions shall also meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- B. Condition limiting duration of temporary use: The Planning Commission shall have the right to impose a condition limiting the duration of a special land use only where the use is by its nature a temporary use, and may also reserve the right of periodic review of compliance with the conditions and limitations imposed upon such use.
- C. Performance guarantee condition on special land use approval: The Planning Commission is authorized to require a performance guarantee as a condition on a special land use approval, as follows:
1. To insure compliance with the zoning ordinance (and/or other conditions imposed at the time of approval), the Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the Planning Commission, covering 100% of the estimated costs of improvements associated with a project for which the approval is sought, be deposited with the clerk of the township to insure faithful completion of the improvements.
 2. The Planning Commission shall by resolution request the Township Clerk to rebate said security deposit in reasonable proportion to the ratio of work completed on the required improvements as the work progresses. The amount of rebate shall be determined from time to time at regular or special meetings of the Planning Commission based upon evidence presented by the applicant and/or appropriate township officials demonstrating the ratio of work completed on the required improvements.
 3. If any improvements are not constructed within the time limit established as part of the approval or within any extension thereof, then the Planning Commission shall by resolution request the Township Board to take appropriate legal steps to insure completion using so much of the security deposit as is necessary for such purpose.

4. As used herein, "improvements" means those features and actions associated with a project which are considered necessary by the Planning Commission to protect natural resources, or the health, safety, and welfare of the residents of a Township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. "Improvements" does not include the entire project which is the subject of zoning approval.

10.5 COMPLIANCE WITH APPROVAL.

- A. The site plan submitted with the special land use application, the specifications in the application, and all conditions imposed by the Planning Commission shall be recorded with the Township Clerk and Zoning Administrator, and shall be incorporated as a part of the special land use approval. An approved special land use which at any time fails to comply with the terms of the approval, or any provision of this Ordinance, shall cease to be a lawful use, and shall be subject to revocation in accordance with Section 10.6 of this Ordinance, in addition to the legal penalties and remedies generally applicable to any violation of this Ordinance.
- B. Every special land use approval shall be subject to an automatically imposed approval condition pursuant to which the approval lapses if the approved use has not substantially begun within one year from the date of approval. Upon request of the applicant, filed prior to the lapse of special land use approval, the Planning Commission may save its prior approval from lapsing where the applicant shows good cause for the delay, and the Planning Commission finds there have been no changed conditions that would potentially affect the prior findings of the Planning Commission with respect to any standard for approval of the use.

10.6 REVOCATION OF SPECIAL LAND USE APPROVAL: All approved special land uses shall be subject to the following provisions, as a condition automatically imposed upon every such approved special land use:

- A. Zoning Administrator Revocation Recommendation. The Zoning Administrator may recommend revocation of a special land use approval upon determining a probable violation of the terms and conditions of a special land use approval or related provisions of this Ordinance. The Zoning Administrator shall provide written notice of the revocation recommendation to the approval holder/property owner by personal delivery or regular mail, and also to the Township Clerk by personal delivery or regular mail.
- B. Planning Commission Review of Revocation Recommendation. The Planning Commission shall review the Zoning Administrator's recommendation to revoke a special land use approval, and shall hold a

public hearing thereon preceded by notice in accordance with statutory provisions governing special land use matters.

- C. Revocation of Special Land Use Approval. After notice and public hearing as provided herein the Planning Commission may vote, by a majority of its membership, to revoke a special land use approval upon verifying the grounds for the Zoning Administrator's revocation recommendation by a preponderance of the evidence presented thereon at the hearing, and upon a further finding that the underlying violations have not been cured, and are not likely to be cured within a reasonable period of time as established by the Planning Commission. Written notification of a Planning Commission determination to revoke a special land use approval shall be provided to the approval holder and property owner by personal delivery or regular mail.
- D. Appeal of Revocation of Special Land Use Approval: Premises for which a special land use approval has been revoked by the Planning Commission shall be used only as otherwise allowed pursuant to the relevant sections of the Zoning Ordinance for the applicable use district. A determination of the Planning Commission revoking a special land use approval may be appealed to the circuit court as provided by law.

10.7 SPECIFIC STANDARDS REQUIRED OF PARTICULAR SPECIAL LAND USES: The following specific standards shall be required of the particular special land uses designated in this section pursuant to Section 10.3.H. of this Ordinance, in addition to the standards specified in Section 10.3.A.-G. of this Ordinance:

SPECIAL LAND USE	MINIMUM REQUIRED STANDARDS
Child (Group) Day Care Home	A
Kennel	B
On-Farm Biofuel Production Facility (Type II or Type III)	C
Wireless Communications Support Structure	D

*The minimum required standards enumerated below are referred to by the numbers following each special land use.

A. Child (Group) Day Care Home.

1. It is located not closer than 1,500 feet to any of the following facilities (measured along a road, street or other thoroughfare open to use by the public as a matter of right for the purpose of vehicular traffic, excluding an alley):
 - a. Another state licensed group day care home;
 - b. Another adult foster care shall group home or large group home licensed by the State of Michigan under the Adult Foster Care Facility Licensing Act (Public Act 218 of 1979, as amended MCL 400.701 et seq.);

- c. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed by the State of Michigan under Article 6 of the Michigan Public Health Code (Public Act 368 of 1978, as amended MCL 333.6101 et seq.);
 - d. A community correction center, resident home, half way house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
- 2. It has appropriate fencing enclosing all outdoor play areas, as determined by the Planning Commission. Such fencing shall be at least five (5) feet high and non-climbable in design.
 - 3. It maintains the property consistent with the visible characteristics of the neighborhood.
 - 4. It does not exceed 16 hours of operation during a 24 hour period, operating only between 6:00 a.m. and 10:00 p.m.
 - 5. It meets all applicable sign regulations in this ordinance.
 - 6. It meets all applicable off-street parking requirements in this ordinance.

B. Kennel

- 1. All kennel facilities, including animal run areas, shall be located at least 200 feet from all property lines. Each kennel facility shall provide sufficient square footage for each animal kept, boarded, bred or trained on the property, in accordance with applicable state laws, and the recommendations of the American Kennel Association. All kennel facilities shall have waste disposal systems adequate to handle all animal waste generated from the kennel facilities.
- 2. Noise, odor, or other objectionable characteristics associated with the facility shall not be discernible beyond the boundaries of the premises upon which the facility is conducted.
- 3. All kennel facilities shall be designed, constructed, operated and maintained in such a manner as to provide humane and sanitary conditions for each animal kept, boarded, bred or trained upon the premises.

C. On-Farm Biofuel Production Facility (Type II or Type III).

1. The facility has all of the characteristics for the term "On-Farm Biofuel Production Facility (Type II or Type III)" as defined in Section 2.2 of this Ordinance.
2. The application for special land use approval included, in addition to the content required by any other provision of this Ordinance, all of the following:
 - a. A description of the process to be used to produce biofuel.
 - b. The number of gallons of biofuel anticipated to be produced annually, and the designed annual biofuel production capacity (in gallons) of the facility.
 - c. An emergency access and fire protection plan that has been reviewed and approved by the Kalamazoo County Sheriff's Department and the South Kalamazoo County Fire Department.
 - d. For an ethanol production facility that will produce more than 10,000 proof gallons (as defined in 27 Code of Federal Regulations 19.907) annually, completed United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau Forms 5000.29 (Environmental Information) and 5000.30 (Supplemental Information on Water Quality Considerations Under 33 USC 1341(a)), or successor forms, required to implement regulations under the National Environmental Policy Act of 1969, 42 USC 4321 to 4347, and the Federal Water Pollution Control Act, 33 USC 1251 to 1387.
 - e. Information that demonstrates the biofuel production facility will comply with all of the special land use approval standards specified herein.
 - f. Any additional information requested by the Planning Commission relevant to compliance with any provision of this ordinance pertaining to special land use application, review, or approval, including any lawful conditions imposed on approval.
3. (required condition on approval) Before the facility begins operation, all buildings, facilities, and equipment used in the production or storage of biofuel shall comply with all applicable local, state and federal laws.

4. (required condition on approval) Before the facility begins operation, the owner or operator of the biofuel production facility has provided the Township with proof that all necessary approvals have been obtained from the Michigan Department of Environmental Quality (or a successor agency) and other state and federal agencies that are involved in permitting any of the following aspects of biofuel production:
 - a. Air pollution emissions.
 - b. Transportation of biofuel or additional products resulting from biofuel production.
 - c. Use or reuse of additional products resulting from biofuel production.
 - d. Storage of raw materials, fuel, or additional products used in, or resulting from, biofuel production.
5. (required condition on approval) Before the facility begins operation, the biofuel production facility includes sufficient storage for raw materials, fuel, and additional products resulting from biofuel production or the capacity to dispose of additional products through land application, livestock consumption, sale, or other legal use.

Note: the Planning Commission is required to hold a hearing on an application for special land use approval of an On-Farm Biofuel Production Facility (Type II or Type III) not more than 60 days after a (complete) application is filed. *MCL 125.3513(4)*.

D. Wireless Communications Support Structure (including equipment compound and wireless communications equipment).

1. Purpose. The purpose of this portion of the Zoning Ordinance is to establish standards for the siting of wireless communication support structures/equipment compounds and wireless communications equipment (for convenience sometimes referred to as "towers" or "communication towers" and "antennas") based on the following goals: (1) protect residential areas and land uses from potential adverse impacts of towers and antennas; (2) encourage the location of towers in non-residential areas; (3) minimize the total number of towers throughout the community; (4) strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; (5) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (6) encourage users of towers and antennas to configure them in a way that minimizes the adverse

visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; (7) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; (8) protect the public health and safety; and (9) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

2. Definitions. The following terms used in this portion of the Zoning Ordinance shall be defined as follows:

- a. "Alternative tower structure" means man-made trees, clock towers, steeples, light poles and similar alternative-design mounting structures that camouflage or minimize the presence of antennas or towers.
- b. "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals.
- c. "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more wireless telephone switching offices, and/or long distance providers, or the public switched telephone network.
- d. "Collocate" means to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Colocation" has a corresponding meaning.
- e. "Communication Tower" or "Tower" means the same thing as wireless communications support structure, except where the context of the usage of the term is clearly applicable to only a tower type of support structure.
- f. "Equipment Compound" means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.
- g. "Height" means, when referring to a wireless communications support structure, the distance measured from the finished grade to the highest point on the structure, including the base pad and any antenna.

- h. “Wireless Communications Equipment” means the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables; but does not include any wireless communications support structure, alternative tower structure, or other structure or device designed to support or capable of supporting wireless communications equipment.
 - i. “Wireless Communications Support Structure” (see definition in Section 2.2).
- 3. Information Required with Special Land Use Application.
 - a. In addition to any information required for applications for special land use permits pursuant to Section 10.2 of this Ordinance, applicants for a special land use permit for a communication tower/antenna shall submit the following information:
 - (1) A scaled site plan clearly indicating the location, type and height of the proposed tower, specifications on all proposed antennas, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Land Use Plan classification of the site and all properties within the applicable separation distances in subsection 4.c., adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Administrator or Planning Commission to be necessary to assess compliance with the standards for approval in this Ordinance.
 - (2) Legal description and ownership of the parent parcel (and leased parcel, if applicable).
 - (3) The setback distance between the proposed tower and the nearest dwelling unit, and the nearest property in a Residential zoning district.
 - (4) An inventory of existing towers, antennas, or sites approved for towers or antennas, that are owned/used by the applicant or any affiliated entity within Kalamazoo County, or within any adjoining

township/county within 1 mile of Wakeshma Township. This inventory shall include the location, height, and design of each existing tower. The location of all such existing towers, and sites approved for towers or antennas, shall also be depicted on a single scaled map. The applicant shall also designate on this map the location of all existing towers not owned/used by the applicant or any affiliated entity located within Wakeshma Township or within 1 mile of any boundary thereof, and indicate the owner/operator of such towers if known.

- (5) A landscape plan showing fencing and specific landscape materials.
- (6) Finished color and, if applicable, the method of camouflage and illumination.
- (7) A description of compliance with all applicable federal, state and local laws.
- (8) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- (9) Identification of the entities providing the backhaul network for the tower(s) described in the application and other wireless sites owned or operated by the applicant or any affiliated entity in the Township.
- (10) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
- (11) A description of the desirable characteristics justifying the suitability of the proposed location.
- (12) Point of view renderings of how the proposed tower will appear from the surrounding area.
- (13) Any additional information requested by the Planning Commission relevant to compliance with any provision of this Ordinance pertaining to special land use application, review, or approval, including any lawful conditions imposed on approval.

All information of an engineering nature, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

Note: Section 3514 of the Michigan Zoning Enabling Act, as amended by 2012 Public Act 143, requires a special land use application for this land use to be reviewed by the Zoning Administrator to determine whether it is administratively complete. The application shall be considered administratively complete 14 business days after receipt of the application, unless the Zoning Administrator determines the application is administratively complete within that 14 day period, or before expiration of that 14 day period notifies the applicant (in writing, or electronically) that the application is not administrative complete and specifies the information and/or application fee payment necessary to make the application administratively complete. The statute also requires the Planning Commission to approve or deny a special land use application for this land use not more than 90 days after the application is considered to be administratively complete.

4. Specific Standards for Approval of Special Land Use Permit for Wireless Communication Support Structure. In addition to the generally applicable standards for approval of special land use permit applications pursuant to Section 10.3 of the Zoning Ordinance, the applicant for special land use approval of a wireless communications support structure, also sometimes referred to as a "tower", shall present evidence demonstrating compliance with the following standards specific to this land use:
 - a. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. The applicant shall demonstrate that no existing tower, other structure, or alternative technology that does not require the use of towers or structures, can accommodate the applicant's proposed antenna, based on information submitted by the applicant showing any of the following:
 - (1) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 - (2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - (3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

- (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - (5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - (6) There are other limiting factors that render existing towers and structures unsuitable.
 - (7) An alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- b. Setbacks. The tower base must be set back a distance equal to 110% of the height of the tower from any adjoining lot line; provided that the Planning Commission is authorized to approve a lesser minimum setback in circumstances where the tower is designed, in the event of failure, to fold-over or otherwise collapse within a fall zone less than the total height of the tower. The Planning Commission determination as to the appropriate minimum required setback shall be based on the tower design and other pertinent circumstances of each individual application, and shall be made pursuant to the general standards for special land use approval in Section 10.3 of this Ordinance. Tower support apparatus, including guy lines and accessory buildings, must satisfy the minimum building/structure setback requirements for the applicable zoning district.
- c. Separation.
- (1) Separation from off-site uses/designated areas. The tower shall comply with the minimum separation requirements from off-site uses and designated areas as specified in Table 1, measured from the base of the tower to the lot line of the off-site uses and/or designated areas (straight line measurement):

Table 1

Off-Site Use/Designated Area	Separation Distance
Single-family, two-family or multiple-family residential uses	200 feet or 300% of height of tower, whichever is greater
Areas in any Residential zoning district	200 feet or 300% of height of tower, whichever is greater
Non-residentially zoned lands and non-residential uses	None; only setbacks apply

- (2) Separation distances between towers. The tower shall comply with the minimum separation requirements from other towers as specified in Table 2, measured between the bases of the proposed tower and preexisting towers (straight line measurement).

Table 2

Existing Towers - Types

	Lattice	Guyed	Monopole 75 Ft in Height or Greater	Monopole Less Than 75 Ft in Height
Lattice	5000 ft.	5000 ft.	1500 ft.	750 ft.
Guyed	5000 ft.	5000 ft.	1500 ft.	750 ft.
Monopole 75 Ft in Height or Greater	1500 ft.	1500 ft.	1500 ft.	750 ft.
Monopole Less Than 75 Ft in Height	750 ft.	750 ft.	750 ft.	750 ft.

- d. Maximum Tower Height. The maximum tower height is 300 feet.
- e. Colocation. The tower shall be designed and constructed (structurally, electrically, and in all other respects) to accommodate the applicant's antennas and compatible

antennas for at least two other users, unless the Planning Commission determines pursuant to specific information submitted by the applicant that this multiple user requirement is not technically feasible for the site, or would result in a tower that fails to otherwise comply with all applicable special land use approval standards. Where a multiple user tower is proposed, or is otherwise required by the Planning Commission pursuant to this Ordinance, the applicant shall furnish a written agreement providing that the applicant shall not prevent or deny space on the tower for compatible antennas of other users, and shall make the tower available to share at a fair market rate as determined by customary industry standards.

- f. Security fencing; safety. The equipment compound shall be enclosed by security fencing or other suitable enclosure not less than six feet in height, to be determined by the Planning Commission, sufficient to restrict access to authorized personnel only. The tower shall be equipped with an appropriate anti-climbing device.
- g. Landscaping and Site Maintenance. A six foot tall landscape screen is required to effectively screen the equipment compound from adjacent residential property, streets and public property, except in locations where the visual impact of the equipment compound would be minimal. The tower site shall be mowed or otherwise maintained in such a manner as to effectively control undesirable or noxious weeds.
- h. Lighting. The tower shall not be illuminated by artificial means and shall not display strobe lights unless specifically required by the Federal Aviation Administration or other federal or state authority for the tower. If lighting is required it shall be oriented inward so as to not project onto surrounding property or roadways, shall be designed to cause the least disturbance to surrounding properties, and shall be designed to minimize bird collisions with the tower.
- i. Signs. The use of any portion of a tower/antenna or equipment compound for signs other than warning or equipment information is prohibited.
- j. Weather Resistance. The tower and all antennas located on the tower shall be designed, constructed and maintained so as to withstand all generally expected weather conditions in the area.

- k. Non-Interference. The tower and all antennas located on the tower shall not interfere with any radio or television transmission or reception in the area.
- l. Abandonment of Unused Towers or Portions of Towers. The applicant shall be required by deed, land contract, lease, or license agreement provisions to remove the tower or portion of tower and associated facilities upon cessation of the use of same. A tower or portion of tower that has no users for a continuous period of at least 1 year shall be considered abandoned, and shall be dismantled and removed from the premises within 90 days after receipt of notice of such abandonment to the owner of the subject premises.
- m. Aesthetics. Towers and antennas shall meet the following requirements:
 - (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 - (2) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

Notwithstanding the foregoing, the Planning Commission may also require tower and guy wire devices designed to minimize bird-tower collisions.

- n. Accessory Structures. The design of the buildings and other accessory structures at or in an equipment compound shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them in with the surrounding environment. All such buildings/structures shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

- 10-19

- (1) The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
- (2) The existing wireless communications support structure/ existing equipment compound is itself in compliance with the zoning ordinance.
- (3) The wireless communications equipment will not increase the overall height of the existing support structure by the greater of 20 feet or 10% of its original height.
- (4) The wireless communications equipment will not increase the width of the existing support structure by more than the minimum necessary to permit collocation.
- (5) The wireless communications equipment will not increase the area of the existing equipment compound so as to be more than 2,500 square feet.
- (6) The proposed change(s) will comply with the terms and conditions of any previous final approval of the existing support structure/compound.

A proposed change that does not comply with preceding sub-parts b.(3), (4), (5), or (6), but which otherwise is compliant with sub-part b., is subject to zoning approval pursuant to approval of an amended site plan in accordance with all applicable provisions of this Ordinance, but without further special land use approval.

- c. Where a proposed installation of wireless communications equipment on an existing wireless communications support structure is not subject to either preceding sub-parts a. or b. of this subsection 5., the installation shall be subject to special land use and site plan approvals in a zoning district where Wireless Communications Support Structure is designated as a special land use.

CHAPTER 11

SITE PLAN REVIEW

- 11.1 **PURPOSE:** The intent of these Ordinance provisions is to provide for consultation and cooperation between the land developer and the Township Planning Commission in order that the developer may accomplish his objectives in the utilization of his land in accordance with the regulations of this Zoning Ordinance and with minimum adverse effect on the use of adjacent streets and on existing and future land uses in the immediate area and vicinity.
- 11.2 **USES SUBJECT TO SITE PLAN REVIEW:** Except as provided in Section 11.12 of this ordinance with respect to the matters subject to administrative site plan review, as designated therein, the following uses shall not be conducted upon any land or in any building/structure, nor shall a building permit be issued for the construction of a building/structure associated with such uses, until a site plan has been submitted to, reviewed, and approved by the Planning Commission in accordance with the provisions of this ordinance pertaining to final site plans:
- A. Special land uses.
 - B. Office and commercial buildings and developments.
 - C. Multiple family dwellings.
 - D. Industrial buildings or developments.
 - E. Multi-lot residential developments, including site condominium projects.
 - F. Any other land use or activity subject to a site plan approval requirement pursuant to any provision of this ordinance.
- 11.3 **PRELIMINARY SITE PLAN REVIEW:** Preliminary sketches of site and development plans may be submitted to the Planning Commission. The purpose of this optional preliminary site plan opportunity is to allow discussion between the developer and the Planning Commission as to site, building, and general requirements; to allow the developer to become acquainted with the mandatory final site plan review process; and to investigate the feasibility of the project prior to extensive engineering plans being prepared for the final site plan review procedure. This preliminary site plan review opportunity is also especially advisable if the applicant intends to ask for a waiver of any of the final site plan content requirements imposed by Section 11.4 of this Ordinance, as only the Planning Commission has authority to waive such content requirements, in certain circumstances, as addressed at the end of Section 11.4. All preliminary site plan submittals shall include at least the following:

- A. The name and address of applicant. If a corporation, the name and address of the officers thereof. If a partnership, the names and addresses of each partner.
- B. Legal description of the property.
- C. Drawings showing tentative plans.

11.4 FINAL SITE PLAN APPLICATION CONTENT: All final site plan review applications shall include, in addition to A and B above, all the following (except as waived by the Planning Commission):

- A. The date, north arrow and scale [the scale shall be not less than one inch equals twenty feet for property under three acres and at least one inch equals one hundred feet for those three acres or more].
- B. All lot and/or property lines are to be shown and dimensioned, including building setback lines.
- C. The location and height of all existing and proposed structures on and within one hundred feet of the subject property.
- D. The location and dimensions of all existing and proposed drives and aisles, sidewalks, curb openings, signs, exterior lighting, parking spaces, loading and unloading areas, outdoor display and storage areas, and recreation areas, etc.
- E. The location of the pavement and right-of-way width of all abutting roads, streets or alleys.
- F. The name and firm address of the professional individual responsible for the preparation of the site plan (including imprint of professional seal, if any).
- G. The name and address of the property owner or petitioner.
- H. The location of all rubbish receptacles and landscaping and the location, height and type of fences and walls.
- I. The size and location of existing and proposed utilities, including proposed connections to public sewer or water supply systems, if available.
- J. The location of all fire hydrants.
- K. The location and dimensions of all existing and proposed interior and exterior areas and structures (including above or below ground storage tanks) to be used for the collection, storage, use, loading/unloading, recycling, or disposal of any chemicals, fuels, flammable materials, contaminated stormwater or washwater, or hazardous materials.

- L. The location of all existing and proposed floor drains.
- M. The location and size of all existing and proposed exterior drains, drywells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport storm water, including the point of discharge for all associated drains and pipes.
- N. A property survey by registered surveyor.
- O. The existing and proposed contour shall be shown on all site plans [two foot intervals, minimum].
- P. The location of all lakes, streams, wetlands, county drains, and other waterways abutting or within 100 feet of the subject property.
- Q. The front, side and rear elevations for all new buildings on the property. Also, with respect to site plans involving multiple-family dwellings, either floor plans for all such buildings or information which is otherwise sufficient to show compliance with the applicable minimum gross floor area per dwelling unit square footage requirement. (Complete floor plans are optional with respect to other types of developments subject to site plan review, but may be required by the Planning Commission where deemed necessary to properly evaluate compliance with the criteria for site plan approval.)
- R. A description of the operation proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, land pollution, fire or safety hazards, or the emission of all potentially harmful or obnoxious matter or radiation.
- S. Engineering and architectural plans for the treatment and disposal of sewage and industrial waste tailings and unusable by-products.
- T. The proposed number of shifts to be worked and the maximum number of employees on each shift.
- U. Any other information deemed necessary by the Township Planning Commission.

The Planning Commission may waive any of the above enumerated required items of content for a final site plan if the Commission determines the item of content either does not apply to the proposed use, or is otherwise unnecessary to evaluate the use for which approval is sought—pursuant to the site plan approval standards specified in Section 11.6 of this ordinance.

11.5 FINAL SITE PLAN SUBMITTAL AND REVIEW SCHEDULING PROCEDURES:

- A. The applicant shall file the site plan and all related information, with the Zoning Administrator (or other designee of the Planning Commission), and pay any applicable fee. This filing shall be sufficiently in advance of the Planning Commission meeting at which the applicant would like to have the site plan reviewed as to allow the Zoning Administrator adequate time to review the filing and timely comply with subsections B-D below.
- B. The Zoning Administrator (or other designee of the Planning Commission) shall initially review the site plan and all related information submitted by the applicant for "administrative completeness", and shall identify all concerns relating to the ordinance criteria for approval of the site plan.
- C. A site plan which is determined by the Zoning Administrator (or other designee of the Planning Commission) to be administratively incomplete shall not be distributed to the Planning Commission or placed on the agenda of a Planning Commission meeting.
- D. When the Zoning Administrator (or other designee of the Planning Commission) has determined a site plan to be administratively complete the applicant shall supply the Zoning Administrator with 7 copies of the administratively complete site plan and all related information (or such other number of copies as the Zoning Administrator may require). The Zoning Administrator shall distribute a copy of the site plan and all related information submitted by the applicant, and the Administrator's report on same, to each member of the Planning Commission no later than 5 days prior to the Planning Commission meeting at which the site plan is scheduled to be reviewed. The Zoning Administrator shall retain 1 copy of the administratively complete site plan and all related information submitted by the applicant, and shall file 1 copy of same with the Township office to be available for public examination.

11.6 FINAL SITE PLAN REVIEW AND APPROVAL/APPROVAL CONDITIONS:

- A. Prior to reviewing or acting on a site plan the Planning Commission may, in its discretion, request comments and recommendations on the site plan from the Township Planner, the Township Engineer, the Township Fire Chief/Fire Marshall, the Township Building Official, and such other parties as the Planning Commission may, in its discretion, determine to be advisable or necessary with respect to a particular site plan.
- B. Standards for Final Site Plan Review:

The Planning Commission shall review and approve a site plan, or approve a site plan with conditions, upon a finding that all of the following standards are met:

1. The proposed use will not have a harmful effect on the surrounding neighborhood development. Fencing, walls and/or landscaping may be required as a screening device to minimize adverse affects upon surrounding development.
2. There is a proper relationship between the major thoroughfares and proposed service drives, driveways and parking areas so as to insure the safety and convenience of pedestrian and vehicular traffic.
3. The adverse effects resulting from the locations of buildings and accessory structures will be minimized to the occupants of adjacent properties.
4. The proper development of roads, easements and utilities has been provided to protect the general health, safety and welfare of the citizens of the Township.
5. The natural features of the landscape, such as ponds, streams, hills, wooded areas, etc. shall be retained where they afford a barrier or buffer between adjoining properties being put to different use.
6. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.
7. All areas and structures where chemicals, fuels, flammable materials, contaminated stormwater or washwater, or hazardous materials are to be collected, stored, used, loaded/unloaded, recycled, generated or disposed of have been designed and located to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers and wetlands, except as may be specifically permitted by a state or federal governmental agency.
8. All floor drains have been approved by the responsible governmental agency for connection to an on-site closed holding tank, or, where appropriate, to a septic system or public sewer system, or regulated through a State of Michigan groundwater discharge permit.
9. The height and location of all portions of buildings and structures are accessible to available emergency personnel.

10. The development plan is consistent with the purpose of zoning regulation in Wakeshma Township as set forth in Section 1.2 of this Ordinance.
11. The proposed development will comply with all applicable provisions of this ordinance, and other applicable ordinances, laws, rules, and regulations.

The Planning Commission shall not approve a site plan if any part of the site plan or the intended use or development of the subject property does not comply with all the preceding standards.

C. Site Plan Approval Conditions/Performance Guarantee:

The Planning Commission is authorized to impose conditions on the approval of a final site plan to the same extent it is authorized to impose conditions on the approval of a special land use, as prescribed in Section 11.4 of this ordinance; and may also require a performance guarantee as prescribed in that section.

- 11.7 MODIFICATIONS: The Planning Commission may approve a final site plan contingent upon the modification of the site plan as discussed with the applicant and as specified in the Planning Commission's approval action. In such circumstances the final site plan approval shall not be effective until a new original of the approved site plan, with the required modifications, has been filed with and verified by the Zoning Administrator. Notwithstanding the foregoing, the Planning Commission shall in no case approve a site plan contingent upon variance relief being granted by the Zoning Board of Appeals. If a proposed site plan cannot be approved without variance relief the Planning Commission shall disapprove the site plan; or, in the alternative, may table any substantive action on the site plan until the applicant has determined whether to apply to the Zoning Board of Appeals for the pertinent variance relief, and any such application has been decided by the Zoning Board of Appeals.

- 11.8 CONFORMITY TO APPROVED SITE PLAN/AMENDMENTS OF APPROVED SITE PLAN: Property which is the subject of site plan approval shall be developed in strict conformity with the final site plan for that property as approved by the Planning Commission, including any site plan modifications approved by the Planning Commission, and any conditions imposed on the site plan approval. Any proposed amendment to a final site plan approved by the Planning Commission shall be subject to review and approval pursuant to the same submittal and review procedures as would apply to a new final site plan, unless the proposed site plan amendment qualifies for consideration pursuant to the administrative site plan review process as specified in Section 11.12 of this ordinance.

- 11.9 FEES: Any application for site plan approval, or administrative site plan review, shall be accompanied by a fee as may be determined from time to time by the Township Board.
- 11.10 REVOCATION: Any site plan approval may be revoked when the construction of said development is not in conformance with the approved plans, in which case the Township Planning Commission shall give the applicant notice of intention to revoke such approval at least fifteen days prior to review by the Planning Commission. After conclusion of such review, the Planning Commission may revoke its approval of the development if the Commission determines that a violation in fact exists and has not been remedied prior to such hearing.
- 11.11 TERM OF APPROVAL: A site plan approval shall be valid for a period of one year. One six-month time extension may be granted after complete review of the application by the Planning Commission. At the end of the six-month extension, if no building permit has been obtained and on-site development actually begun, the site plan approval becomes void, and the developer shall submit a new application for approval.
- 11.12 ADMINISTRATIVE SITE PLAN REVIEW: The following administrative site plan review (ASPR) process shall apply in the circumstances and to the extent specified in this section, as an alternate to the generally applicable final site plan review process specified in this Chapter.
- A. Projects eligible for ASPR. A project is eligible for the ASPR process only with respect to any of the following changes to an existing development:
1. A reduction of the size of an existing building or structure.
 2. An expansion of an existing building or structure, not exceeding 25% of the existing square footage, and not exceeding a cost of \$40,000.
 3. The internal rearrangement of a parking lot and/or parking spaces, where the total number of parking spaces is neither increased nor decreased, and there is no alteration of the access location or design.
 4. The relocation of an existing building or structure, where all setback and yard location requirements are met.
 5. Other similar changes of a minor nature which the Zoning Administrator, upon consultation with the Planning Commission Chairperson, determines will not materially affect the character or intensity of use, vehicular or pedestrian circulation, drainage patterns, or the demand for public services; will not have any adverse affect on adjacent or nearby property or the use thereof;

and will not have any adverse affect on the health, safety, or welfare of the general public.

The ASPR process shall not apply if any of the above-listed circumstances involve any of the following:

1. A new building or structure.
 2. A new or altered access to the site.
 3. A change in use and/or a new use.
 4. A variance from any provision of the Zoning Ordinance is required; or the project fails to comply with any applicable provision of this Ordinance, or any other applicable ordinance regulation or law.
- B. ASPR Process. The Zoning Administrator, after consultation with the Planning Commission Chairperson, may determine whether a proposed project is eligible for the ASPR process and may be granted site plan approval pursuant to that process. The Zoning Administrator shall refer to the Planning Commission for review and approval consideration pursuant to the preceding sections of this Chapter pertaining to final site plan review any proposed project for which the Planning Commission Chairperson has not recommended approval pursuant to the ASPR process. In addition, the Zoning Administrator shall have discretion to decline applying the ASPR process to an eligible project, and instead refer such project to the Planning Commission for review and approval consideration pursuant to the preceding sections of this Chapter pertaining to final site plan review.
- C. Review and Approval Criteria. The Zoning Administrator shall review and determine whether to approve a project eligible for the ASPR process pursuant to the standards in Section 11.6.B of this Ordinance and all other applicable provisions. The Zoning Administrator may require the applicant to submit such information pursuant to the final site plan application content requirements of Section 11.4 of this Ordinance as the Zoning Administrator deems necessary to properly review the project pursuant to the ASRP process.
- D. Significance of Approval Pursuant to ASPR Process. A project approved by the Zoning Administrator pursuant to the ASPR process shall be considered to have site plan approval, subject to sections 11.7.-11.8. and 11.9.-11.11. of this Ordinance.

CHAPTER 12

PARKING AND LOADING SPACES

- 12.1 **GENERAL OFF-STREET PARKING REQUIREMENT:** In all zoning districts, every property owner shall provide and maintain at all times sufficient off-street parking areas, and the necessary loading and unloading facilities associated thereto, for all the occupants, employees and patrons of all land uses on the property, in accordance with the provisions of this Chapter. No parking area or space, or loading/unloading facilities which exist at the time this Ordinance becomes effective, or which subsequently is provided for the purpose of complying with the provisions of this Ordinance, shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance.
- 12.2 **PARKING SPACE SIZE AND ACCESS:** Each off-street parking space required by this Chapter shall be at least ten feet in width and 20 feet in depth, exclusive of access drives or aisles. Handicapped parking spaces shall be provided in accordance with state law. There shall be adequate provision for ingress and egress to all parking spaces.
- 12.3 **BUILDING ADDITIONS/OTHER CHANGES:** The parking area required by this Chapter for each land use shall be increased sufficiently to comply with the applicable requirements of this Chapter whenever an addition is made to an existing building or other changes occur that implicate additional parking space requirements pursuant to this Ordinance.
- 12.4 **MIXED OCCUPANCIES AND JOINT USE:** The number of parking spaces required for land or buildings used for two or more purposes shall be the sum of the requirements for the various individual uses, computed in accordance with this Chapter. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use; provided, that requirements for the provisions of parking facilities with respect to two or more property uses of the same or different types may be satisfied by a common parking facility, cooperatively established and operated, which permanently allocates a number of spaces not less than the sum of the requisite number of spaces for each use as provided in this Chapter.
- 12.5 **PROHIBITED DESIGN:** All off-street parking areas that make it necessary for any vehicle to back out directly into a public street are prohibited.
- 12.6 **PARKING SPACES FOR USES NOT SPECIFIED:** In the case of a use not specifically mentioned in this Chapter in the Table of Off-Street Parking Requirements, the applicable requirement for the number of off-street parking spaces shall be as required for an analogous specified use or a specified use with similar parking demands, as determined by the Zoning Administrator.
- 12.7 **FRACTIONAL SPACES:** When the calculation of the required number of parking spaces pursuant to this Chapter results in a fractional space, any fraction up to

and including one half shall be disregarded, and fractions over one half shall require one parking space.

- 12.8 **TABLE OF OFF-STREET PARKING REQUIREMENTS:** The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings shall be determined in accordance with the following table, and shall be irrevocably reserved for such use and shall comply with the requirements of this Chapter.

Note: Notwithstanding the following minimum parking space requirements designated for various land uses, every property owner shall provide and maintain at all times an adequate number of off-street parking spaces and, where applicable, the necessary loading and unloading facilities associated therewith, for all the occupants, employees and patrons of the property. Thus, depending upon individual circumstances a greater number of parking spaces may be required in order to comply with this overriding requirement.

A. Residential

USE		NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
1.	Residential, one family and two family	Two for each dwelling unit
2.	Residential, multiple family	Two for each dwelling unit
3.	Mobile home park	Two for each trailer or mobile home site and one for each employee
4.	Child day care home, group or family; foster care facility	One for each employee not residing in the facility

B. Institutional and Recreational

USE		NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
1.	Place of worship	One for each three seats based on maximum seating capacity in the main unit of worship
2.	Care Home	One for each 600 square feet of gross floor area
3.	Elementary and Junior High School	One for each employee, in addition to the requirements of the auditorium
4.	Senior High School	One for each employee and one for each ten students, in addition to the requirements of the auditorium
5.	Private club or lodge hall	One for each three persons allowed within the maximum occupancy
6.	Auditorium, gymnasium, indoor theater, stadium, sports arena, or similar place of assembly	One for each three seats or six feet of bench space

C. Business and Commercial

USE		NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
1.	Gasoline service station	Two for each lubrication stall, rack or pit; and one for each employee
2.	Beauty parlor or barber shop	Three spaces for each of the first two chairs and one space for each additional chair
3.	Establishment for sale and consumption of beverages, food or refreshments	One for each 75 square feet of gross floor area, or one for each three persons of maximum capacity, which ever is greater
4.	Furniture and appliance household equipment, repair shop, showroom for plumber, decorator, electrician or similar trade, show repair and other similar uses	One for each 200 square feet of gross floor area
5.	Laundromat	One for each two washing machines
6.	Funeral home	One for each 100 square feet of gross floor area
7.	Motor vehicle sales and service establishment, trailer and boat sales and rental showrooms	One for each 100 square feet of gross floor area
8.	Retail store, except otherwise specified herein	One for each 200 square feet of gross floor area

D. Offices

USE		NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
1.	Bank/credit union	One for each 100 square feet of gross floor area
2.	Business or professional office	One for each 400 square feet of gross floor area

E. Industrial

USE		NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
1.	Industrial or research establishment	One for every one and one-half employees in the largest working shift
2.	Wholesale or warehouse establishment	One for every one and one-half employees in the largest working shift, or one for every 2000 square feet of gross floor area, whichever is greater

12.9 PARKING VARIATION: Where it can be demonstrated that the parking requirements of this Chapter would provide an excessive amount of parking area for the needs of a particular use, a site plan with lesser parking area may be approved, provided all the following conditions are present:

- A. The use does not provide on-site services to the general public.
- B. The maximum number of employees and visitors during any one eight hour period can be demonstrated to be less than the parking space requirements provided for by this Ordinance.
- C. An agreement to provide additional parking if an increase in employees or visitors shall occur at a future time is made part of the site plan.
- D. An open landscaped area meeting the required area of this Chapter is shown reserved for future parking.
- E. Site plan approval of lesser requirements shall be valid only for the stated use. A new use shall not be approved unless a new site plan is reviewed and parking arrangements are found to be in accordance with the requirements of this Ordinance.

12.10 ADDITIONAL REQUIREMENTS FOR PARKING IN RESIDENTIAL DISTRICTS: The following parking requirements apply in any Residential zoning district, in addition to the applicable preceding sections of this Chapter:

- A. Parking of motor vehicles in residential zones, except those used for farming, shall be limited to passenger vehicles, and not more than one commercial vehicle of the light delivery type, not to exceed 1 ton rated load capacity. The parking of any other type of commercial vehicle, or buses, except for those parked on school property, is prohibited in a residential zone.
- B. There shall be no outdoor storage of vehicles such as trailers, campers or boats in the front yard in any residential zone; provided this provision is not intended to prohibit the parking of any one such conveyance that is properly licensed and operable on the driveway portion of a front yard on a temporary basis, not exceeding 48 hours, for washing, cleaning, and minor maintenance.

12.11 ADDITIONAL REQUIREMENTS FOR NON-RESIDENTIAL USES: All commercial, industrial, and other non-residential (dwelling) land uses shall comply with the following parking requirements in all zoning districts, in addition to all applicable preceding sections of this Chapter:

- A. All off-street parking facilities required pursuant to this Chapter shall be located on the same parcel as the principal use, or on a contiguous lot, which shall include a lot separated from the main lot by a street.

- B. All off-street parking spaces shall be at least 10 feet from any property line or street.
- C. All off-street parking facilities shall be drained so as to prevent run-off on adjacent properties or public streets.
- D. Off-street parking areas adjoining premises in the any Residential District shall be set back at least 30 feet from all property in that District, and shall be effectively screened by either a dense evergreen planting, fence, or retaining wall not less than four feet or more than eight feet in height, as determined, with respect to type and height of screening, in the site plan review process.
- E. Lighting of off-street parking areas shall be designed and arranged so as to reflect the light away from all adjacent residentially used lots, regardless of the zoning district in which such lots are situated.
- F. Service or access drives shall be located at least 70 feet from a lot line abutting a residentially used lot, regardless of zoning classification, and at least 10 feet from all other lot lines.
- G. All off-street parking areas shall be maintained in a usable dust-free condition.
- H. All off-street parking areas providing space for more than four vehicles shall have the individual parking spaces marked on the surface of the parking area.
- I. Sufficient on-premises loading/unloading space shall be provided in such a manner as to avoid undue interference with public use of the streets or any access aisles for off-street parking areas. For any commercial or industrial use requiring more than four off-street parking spaces pursuant to this Chapter, the loading/unloading areas shall be conducted in side or rear areas of the building, and shall not in any manner utilize the required off-street parking spaces.

CHAPTER 13

SIGNS AND OUTDOOR ADVERTISING STRUCTURES

13.1 **SIGNS AND OUTDOOR ADVERTISING STRUCTURES:** Signage is allowed according to the provisions of this section pertinent to the particular zoning district, in accordance with Section 13.2 governing signs allowed in all zoning districts, and further in accordance with Section 13.3 regulating certain aspects of signage in all zoning districts. A sign not expressly allowed in a specific zoning district or generally allowed in all zoning districts pursuant to this Chapter is prohibited.

A. **A-Agriculture District.** In the A-Agriculture district the following signs are permissible:

1. One incidental sign advertising the sale of farm products grown on the premises; provided such sign shall not exceed 48 square feet in area, shall be located at least 25 feet from the road right-of-way and otherwise in such a manner that it will not interfere with the full view of traffic, and shall not be illuminated in any manner at any time.
2. One incidental sign not exceeding three square feet in area to advertise only lawful home-based business uses. Such sign may be attached to the building, or may be located on the property of such use, but may be no closer to the street than the building set back line.
3. One sign identifying any other permissible commercial use, or an institutional/public use, subject to the same size, location, and illumination requirements as specified in preceding subsection A.1.

B. **Residential Districts.** In any Residential district the following signs are permissible:

1. One incidental sign not exceeding three square feet in area to advertise only lawful home-based business uses. Such sign may be attached to the building, or may be located on the property of such use, but may be no closer to the street than the building set back line.
2. One sign identifying any other permissible commercial or an institutional/public use, subject to the same size, location, and illumination requirements as specified in preceding subsection A.1.

C. **MU Multi-Use Overlay District.** The following signs are permissible in the MU Multi-Use Overlay District to advertise an otherwise permissible business occupying the same premises on which the sign is located:

1. Signs as allowed in the underlying R-1 District pursuant to Section 13.1B. above.
2. One identification sign may be erected for each separate commercial enterprise situated on an individual lot and operated under separate ownership from any adjoining commercial enterprise. Such sign shall not exceed 80 square feet in area, nor be closer to the front, side or rear property line than one half the distance of the required building setback.
3. Advertising signs may be affixed flat against the wall of the building, or may project therefrom not more than 42 inches. Signs projecting over a sidewalk or other public property shall be at least 11 feet above the finished grade or sidewalk. The total sign area shall not exceed two square feet for each foot in length or height of the wall to which it is affixed. No such sign shall extend more than four feet in height above the building wall to which it is affixed.
4. One identification sign may be erected for an integrated group of stores or commercial buildings. The area of said sign shall be based on one square foot for each front foot of building, or buildings, for which it is established; however, it shall not exceed 400 square feet in area, nor be closer to the front, side or rear property line than one half the distance of the required building setback.

- D. Billboards. Billboards (an outdoor sign advertising a business, service, product, activity, person, or event which is not made, produced, assembled, stored, distributed, leased, sold, or conducted on the premises on which the sign is located) are not allowed in Wakeshma Township in any zoning district.

13.2 SIGNS ALLOWED IN ALL ZONING DISTRICTS: The following types of signs are allowed in all zoning districts, subject to the lighting, maintenance and locational regulations in Section 13.3 of this Ordinance, and any other applicable laws:

- A. Flags and insignia of any government, except when displayed in connection with commercial promotion.
- B. Legal notices posted by any governmental body.
- C. Identification, informational or directional signs, or other types of signs lawfully erected or required by any governmental body including, but not limited to, the State of Michigan, Kalamazoo County, or Wakeshma Township.

- D. Governmental use signs erected by governmental bodies to designate hours of activity or conditions of use for parks, parking lots, recreational areas, governmental buildings, or other public places.
- E. Signs directing and guiding traffic and parking on private property, including private off-street parking areas open to the public, provided any such sign does not exceed four square feet in area, and is limited to traffic control functions, and bears no advertising matter.
- F. Historic signs designating sites recognized by the State of Michigan as Centennial Farms or Historic Landmarks, provided any such sign does not exceed 16 square feet in area.
- G. Signs posted to control or prohibit trespassing, hunting or fishing upon private property or public property.
- H. Essential service signs designating utility lines, railroad lines, hazards, or precautions, properly erected and placed by a public or private utility company or railroad, or a governmental entity.
- I. Headstones and monuments in public or lawfully established private cemeteries, and memorial signs or tablets which are either (1) cut into the face of a masonry surface, or (2) constructed of bronze or other incombustible materials and located flat on the face of a building.
- J. Banners and similar devices erected by a governmental entity to advertise a public event or civic function sponsored by a governmental entity.
- K. Temporary election/campaign signs.
- L. One real estate sign per lot, located on-premises only while the premises are actually on the market for sale, rent or lease, and not exceeding eight square feet in area; provided, however, that on a corner lot or lot with more than 300 feet of road frontage, more than one Real Estate Sign is allowed so long as the aggregate total of all such signs does not exceed eight square feet in area.
- M. Temporary construction signs designating architects, engineers, or contractors in conjunction with construction work under construction, not exceeding 48 square feet for all such signs.
- N. Signs or other special decorative displays used for holidays, public demonstrations, or promotion of civic welfare or charitable purposes, only when authorized by the Township Board, based upon the following standards:
 - 1. The size, character and nature of the sign or display shall be compatible with the nature of the matter being promoted.

2. The duration or time period during which the sign or display will be utilized shall be reasonably related to the nature of the matter being promoted and the proper promotion of same. Arrangements shall be made for the prompt removal of the sign or display after the conclusion of the matter being promoted.
 3. The sign or display shall not affect light or air circulation for lots which are either adjoining or in the surrounding neighborhood of the proposed sign or display.
 4. The sign or display shall not constitute a traffic hazard.
 5. The sign or display shall not have an adverse or detrimental impact on adjoining lots or the surrounding neighborhood.
- O. One temporary auction or garage sale/yard sale sign located on the premises where such a sale is lawfully being conducted, only while the sale is in progress, and not exceeding 8 square feet in area.

13.3 GENERAL PROVISIONS AND REQUIREMENTS: The following provisions and requirements shall be applicable to all types of signs in all zoning districts, unless specifically stated to the contrary in this Chapter:

- A. No sign shall be erected at any location where, by reason of position, size, shape or color, it may interfere with, obstruct the view of, or be confused with an authorized traffic sign, signal or device, or so as to interfere with, mislead or confuse vehicular or pedestrian traffic.
- B. No rotating beam, beacon or flashing illumination shall be used in connection with any sign.
- C. Subject to the preceding restriction, signs may be illuminated unless prohibited by another section of this Chapter applicable to a particular type of sign. Where illumination is allowed such illumination shall be concentrated on the surface of the sign, and the source of illumination shall be down-facing and otherwise designed and located so as to avoid glare or reflection on to any portion of an adjacent street, the path of on-coming vehicles, or any adjacent premises.
- D. All signs shall be designed and constructed in such a manner as to withstand all wind and other weather conditions normally expected to occur in the area. All signs shall be properly maintained and repaired so as to assure proper alignment of structure, continued structural soundness, and continued readability of message, and also so as to not become unsightly or dilapidated in appearance or function through disrepair or exposure to the elements.

- E. Temporary signs shall be removed from view of public roadways and adjoining properties within five days after the event or matter to which they pertained has been concluded.
- F. All lawful nonconforming signs and sign structures shall be subject to the regulations governing nonconforming uses and nonconforming structures in Chapter 15 of this Ordinance.
- G. All signs shall be subject to the zoning compliance permit requirements of Section 3.3 of this Ordinance before erection or installation; except signs allowed pursuant to Section 13.2 of this Ordinance, and signs otherwise subject to prior approval through the site plan review process of Chapter 11 of this Ordinance.

CHAPTER 14

RESERVED FOR POTENTIAL FUTURE

CHAPTER 15

NONCONFORMING USES, BUILDINGS/STRUCTURES, AND LOTS

- 15.1 SCOPE OF REGULATIONS: This Chapter governs lawfully established nonconforming uses, buildings, structures, and lots. Nothing herein shall be interpreted as authorization for or approval of the initiation, continuance or reestablishment of an unlawful use, building/structure or lot.
- 15.2 CONTINUATION OF NONCONFORMING USES AND BUILDINGS/STRUCTURES: Except where specifically provided to the contrary, and subject to the provisions of this Chapter, a lawful use, building/structure or lot which is existing and lawful on the effective date of this ordinance, or in the case of an amendment of this ordinance then on the effective date of such amendment, may be continued even though such use, building/structure or lot does not conform with the provisions of this ordinance or applicable amendment thereof. A change in the ownership, tenancy or occupancy of a use, building/structure or lot shall not affect such continuation rights.
- 15.3 REPAIR, MAINTENANCE AND RECONSTRUCTION OF NONCONFORMING USE OR BUILDING/STRUCTURE: Such ordinary repairs and maintenance work as may be necessary to keep a nonconforming use or building/structure in sound condition, or as may be required to conform with law, may be made provided that no such work shall include structural alterations which are likely to extend the reasonably anticipated useful life of the building/structure. If a nonconforming building/structure is damaged or destroyed by fire, flood, wind, or other calamity to the extent of 50% or more of its fair market value at the time of such damage or destruction, the building/structure shall not be repaired or otherwise restored or reconstructed except in conformity with this Ordinance. Where such damage or destruction is less than 50% of the fair market value of the building/structure at the time of such damage or destruction, the building/structure may be repaired or otherwise restored and reconstructed so as to be not more nonconforming than at the time of the damage or destruction. Any such reconstruction right shall be considered terminated by abandonment if reconstruction is not started within six months from the time of the damage or destruction. For purposes of this provision there shall be a rebuttable presumption that the "fair market value" of a building/structure is the same as the "true cash value" for that building/structure according to the most recent property tax assessing records of the Township.
- 15.4 EXPANSION OF NONCONFORMING USE OR BUILDING/STRUCTURE: A nonconforming use or nonconforming building/structure shall not be expanded, extended, enlarged, or otherwise altered, unless:
- A. Such expansion, extension, enlargement or alteration is, by itself, in conformity with the provisions of this Ordinance and does not aggravate the existing nonconforming condition; or,

- B. Such expansion, extension, enlargement or alteration is authorized by the Zoning Board of Appeals pursuant to Chapter 17 of this Ordinance and upon a showing that the requested expansion, extension, enlargement or alteration will not substantially extend the otherwise reasonably anticipated useful life of the nonconforming use or building/structure.

15.5 CHANGE OF NONCONFORMING USE: A nonconforming use shall not be changed to any other nonconforming use except as may be authorized by the Zoning Board of Appeals pursuant to Chapter 17 of this Ordinance, and upon a finding that the proposed new use will substantially decrease the degree of nonconformity and will be more compatible with adjacent uses than the prior nonconforming use.

15.6 DISCONTINUATION AND REESTABLISHMENT OF NONCONFORMING USES AND BUILDINGS/STRUCTURES:

- A. Reestablishment. A nonconforming use shall not be reestablished after it has been changed to a conforming use or a more restrictive use. A nonconforming building/structure shall not be reestablished after it has been changed to a conforming building/structure.
- B. Discontinuation. A nonconforming use or nonconforming building/structure shall not be reestablished after being discontinued, vacant, not conducted or abandoned without an intention to resume same. Such an intention shall be presumed after discontinuation, etc. for a period of one year.

15.7 NONCONFORMITY DUE TO REZONING OR TEXT AMENDMENT: The provisions of this Chapter shall also apply to uses, buildings/structures or lots which hereafter become nonconforming due to any rezoning or a change in the text provisions of this Ordinance.

15.8 EXISTING NONCONFORMING LOTS: Any lot of record created prior to the effective date of this Ordinance that fails to comply with the minimum requirements of its zoning district may be developed for a lawful conforming use if the lot conforms in all respects to the requirements of the Zoning Ordinance in effect as of the date of such recording, and complies with all other current requirements of this Ordinance. A nonconforming lot shall otherwise be buildable only pursuant to a variance approved by the Zoning Board of Appeals.

CHAPTER 16

PLANNING COMMISSION

- 16.1 **CREATION; POWERS AND JURISDICTION:** The Wakeshma Township Planning Commission has been created under the Michigan Planning Enabling Act (2008 Public Act 33, as amended) by Wakeshma Township Ordinance No. 37 (Planning Commission Ordinance) adopted February 2, 2009. The Planning Commission shall have all such powers and jurisdiction as may be provided by applicable laws, the Planning Commission Ordinance, and this Zoning Ordinance (in each in instance, as same may be amended).

CHAPTER 17

ZONING BOARD OF APPEALS

17.1 **CREATION.** There is hereby created a Zoning Board of Appeals, which shall perform its duties and exercise its powers and jurisdiction as provided by applicable laws and this ordinance.

17.2 **MEMBERS.** The Zoning Board of Appeals shall be appointed by the Township Board as prescribed by statute. The Zoning Board of Appeals shall consist of three regular members. One of the regular members shall be a member of the Planning Commission. The remaining regular members, and any alternate members, shall be selected from the electors of the Township. The membership of the Zoning Board of Appeals shall be representative of the population distribution and of the various interests present in the Township. A member of the Township Board may be a regular member of the Zoning Board of Appeals. An employee or contractor of the Township Board shall not serve as a member of the Zoning Board of Appeals.

The Township Board may appoint to the Zoning Board of Appeals not more than two alternate members for the same term as regular members. An alternate member may be called to sit as a regular member in the absence of a regular member if the regular member will be unable to attend one or more meetings. One alternate member shall also be a member of the Planning Commission, and shall be called to sit as a regular member only in the absence of the regular member of the Zoning Board of Appeals who is also a member of the Planning Commission. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member serving on the Zoning Board of Appeals has the same voting rights as a regular member.

17.3 **TERM.** The term of each member shall be three years and until a successor has been appointed and qualified; such successor shall be appointed not more than one month after the expiration of the preceding term. Staggered terms shall be effected by one or more of the first appointed members serving for less than three years. Members from the Township Board and from the Planning Commission shall have terms limited to their respective other official terms or to such lesser period determined by resolution of the Township Board.

17.4 **JURISDICTION AND POWERS.** The Zoning Board of Appeals shall have all the powers and jurisdiction prescribed by applicable law, and by the provisions of this Ordinance, including the following:

- A. Hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify

the order, requirement, decision or determination as in its opinion ought to be done, and to that end it shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a permit.

- B. Act upon all questions as they may arise in the administration and enforcement of this Ordinance, including interpretation of the zoning map.
- C. Hear and decide, subject to Section 17.9, requests for a nonuse variance from dimensional requirements of the Zoning Ordinance, or from any other nonuse-related requirement in the Ordinance, if there are practical difficulties in the way of carrying out the strict letter of the requirement, so that the spirit of the Zoning Ordinance is observed, public safety secured, and substantial justice done.
- D. Hear and decide requests to expand, extend, enlarge, or otherwise alter a lawful nonconforming use or nonconforming building/structure, as provided by Section 15.4.
- E. Hear and decide requests to change a nonconforming use to another nonconforming use, as provided by Section 15.5.

17.5 OFFICERS. The Zoning Board of Appeals shall designate one regular member as its Chairperson; provided a regular member who is also a member of the Township Board is not eligible to serve as Chairperson of the Zoning Board of Appeals. The Zoning Board of Appeals may designate such other officers as it deems expedient to the proper performance of its duties.

17.6 MEETINGS/RULES OF PROCEDURE. Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the Zoning Board of Appeals may determine for the efficient conduct of its business. The Zoning Board of Appeals shall not conduct business unless a majority of its regular members are present. All meetings shall be open to the public. The Zoning Board of Appeals may adopt rules of procedure consistent with applicable statutes and this ordinance.

17.7 APPEALS. Appeals to the Zoning Board of Appeals may be taken by any party aggrieved or affected by a decision or order of the Zoning Administrator or by an officer or agency of the Township. A notice of appeal specifying the grounds thereof shall be filed with the Zoning Board of Appeals within 30 days after the date of the action appealed. A copy of the notice shall promptly be served upon the officer or agency from whose decision or order the appeal is taken, who shall forthwith transmit to the Zoning Board of Appeals all records pertaining to the action appealed from. An appeal shall stay all proceedings, decisions or orders unless said officer certifies to the Zoning Board of Appeals that a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except upon a restraining order issued by the Zoning Board of Appeals or by the circuit court.

17.8 APPLICATIONS. All appeals and applications for any matter within the jurisdiction of the Zoning Board of Appeals shall be submitted and processed under the following procedures:

- A. The appeal or application shall be filed in triplicate with the Township Clerk, and shall include all of the following:
 - 1. A completed appeal or application form, using the applicable form prescribed by the Township.
 - 2. All materials on which the applicant intends to rely in support of the appeal or other application.
 - 3. For any appeal or other application involving specific property, such as an application for variance relief, a site plan or diagram of the subject property showing, at a minimum, all of the following:
 - a. The location of the subject property with respect to all abutting streets.
 - b. The dimensions of the subject property.
 - c. The location of all existing buildings and structures on the subject property, and on all adjoining properties.
 - d. The location of all proposed buildings/structures on the subject property.
 - e. The existing and proposed uses of the existing and proposed buildings/structures on the subject property.
 - f. The existing and proposed setback of each building/structure which is the subject of the appeal or other application, measured in each instance to the street line and all pertinent lot lines.
 - 4. Payment of the applicable fee as set by the Township Board.
- B. The Township Clerk shall promptly refer one copy of the application submittal to the Township Attorney, and one copy to the Zoning Administrator. The Zoning Administrator shall promptly review the submittal to determine whether it is administratively complete, and shall notify the applicant of any deficiencies in the content of the application submittal. An application shall not be processed for public hearing or other consideration by the Zoning Board of Appeals unless and until it is administratively complete as determined by the Zoning Administrator. The

Zoning Administrator shall promptly refer an administratively complete appeal/application to the Zoning Board of Appeals.

17.9 VARIANCE STANDARDS AND CONDITIONS.

A. Standards: No variance in the provisions or requirements of this ordinance shall be authorized by the ZBA unless the ZBA finds from reasonable evidence that:

- By reason of the exceptional narrowness, shallowness, or shape of the property in question, or by reason of exceptional topographic conditions or other extraordinary conditions of the property in question, there are practical difficulties preventing compliance with the strict letter of the Ordinance.
- The exceptional or extraordinary conditions applying to the specific property do not apply generally to other properties that are subject to the requirement at issue.
- The variance will not be of substantial detriment to adjoining property.
- The variance will not materially impair the intent and purpose of this ordinance, or the public health, safety and welfare.
- The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties that are subject to the requirement at issue.

In determining whether the standards for variance relief have been shown to be satisfied the ZBA shall be governed by the following additional legal principles:

- The circumstances or conditions submitted by the applicant to justify the variance relief must pertain to the property at issue, and not the personal circumstances of the applicant and/or other occupants or users of the property.
- The circumstances or conditions submitted by the applicant to justify the variance relief must not have been self-created by the applicant or some other person under the control of the applicant or for whose conduct the applicant is responsible.
- Increased costs associated with complying with the strict letter of the ordinance are not a basis for variance relief.
- Increased financial return if variance relief is granted is not a basis for variance relief.

- The ZBA may find the standards for relief from the strict letter of the ordinance have been shown to be satisfied, but not to the extent of the variance requested by the applicant, and in such circumstances the ZBA shall grant only such lesser variance relief as is necessary.
- B. Conditions. The Zoning Board of Appeals may attach conditions or limitations upon a variance, where such are necessary to insure that public services and facilities affected by a requested variance and the associated land use or activity will be capable of accommodating increased service and facility loads caused by the variance and associated land use or activity, and to protect the natural environment and conserve natural resources and energy, and to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

Prior to attaching a condition or limitation to a variance, the Zoning Board of Appeals shall also specifically determine the following:

- a. That the condition or limitation is designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity associated with the variance under consideration, residents and land owners immediately adjacent to the land use or activity, and the community as a whole; and,
- b. That the condition or limitation is related to the valid exercise of the police power, and purposes which are effected by the proposed variance; and,
- c. That the condition or limitation is necessary to meet the intent and purpose of the zoning ordinance, is related to the standards established in the ordinance for the variance under consideration and associated land use or activity, and is necessary to insure compliance with those standards.

Any such conditions and limitations may impose greater or more restrictions and requirements than are included in this Ordinance generally, and may include the provision of reasonable financial security to guarantee performance. Violation of any such conditions or limitations shall be deemed a violation of this Ordinance.

- 17.10 LAND USE VARIANCE. The Zoning Board of Appeals shall not act on a request for a land use variance (for a use not allowed in a zone).
- 17.11 PUBLIC HEARINGS. Upon the filing of an administratively complete appeal or application on a matter over which the Zoning Board of Appeals has

jurisdiction, the Zoning Board of Appeals shall hold a public hearing on such matter if required by law, preceded by notice as required by law.

17.12 DECISIONS. The Zoning Board of Appeals shall render its decision upon such application within 60 days after the hearing thereon and notify the applicant of its decision.

17.13 TIME LIMITS.

- A. If a variance is granted or other action is authorized by the Zoning Board of Appeals, the authorized action shall be deemed abandoned and withdrawn if it is not initiated within three months and completed within 12 months after the Zoning Board of Appeals decision. However, upon request of the applicant, filed no later than the applicable deadline, the Zoning Board of Appeals may renew the authorized action where the applicant shows good cause for the delay, and the Zoning Board of Appeals finds there have been no changed conditions that would potentially affect the prior findings of the Zoning Board of Appeals on which the authorized action was dependent.
- B. No application for a variance or other relief which was denied in whole or in part shall be reheard by the Zoning Board of Appeals for a period of one year from the date of the denial, unless the Zoning Board of Appeals finds that grounds for such a rehearing exist on the basis of either newly discovered evidence or proof of changed conditions that were not known to the applicant or the Zoning Board of Appeals at the time of the previous hearing.

17.14 VOTE NECESSARY FOR DECISION. The concurring vote of a majority of the members of the Zoning Board of Appeals is necessary to grant a variance or otherwise decide in favor of the applicant, or to reverse an order, requirement, decision, or determination of the Zoning Administrator.

17.15 MINUTES AND RECORDS. The secretary/recording secretary or other designee of the Zoning Board of Appeals shall keep minutes of its proceedings, which shall be filed with the Township Clerk and be a public record.

17.16 LIMITATION OF BOARD ACTION. Except as expressly authorized in this Chapter, the Zoning Board of Appeals shall not, through any decision, alter, vary or otherwise negate any provisions of this ordinance. If the Zoning Board of Appeals considers any specific provision of the Zoning Ordinance inappropriate it shall submit to the Planning Commission a request for review of the provision.

CHAPTER 18

ADMINISTRATION AND ENFORCEMENT

- 18.1 ZONING ADMINISTRATION AND ENFORCEMENT: The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator (who may also be known as the Zoning Ordinance Enforcement Officer), and such other persons as the Township Board may designate.
- 18.2 ZONING ADMINISTRATOR APPOINTMENT: The Zoning Administrator shall be appointed by the Township Board for such term and subject to such conditions and at such rate of compensation as the Township Board shall determine.
- 18.3 ZONING ADMINISTRATOR DUTIES: The Zoning Administrator shall have the following duties and responsibilities:
- A. Investigation of Violations. The Zoning Administrator shall investigate any alleged violation of the Zoning Ordinance coming to his or her attention. If a violation is found to exist, the Zoning Administrator shall proceed in accordance with policies established by the Township Board and as otherwise provided by law.
 - B. Inspections. The Zoning Administrator shall make periodic inspections of property subject to an approved site plan and/or special land use permit approval to ascertain that the requirements of this Ordinance are being complied with during the construction/implementation of the approved development.
 - C. Administrative Review of Site Plans. The Zoning Administrator shall review site plans and related materials as specified in Section 11.5 of this Ordinance.
 - D. Issuance of Land Use Permits. The Zoning Administrator shall review and act on applications for zoning compliance permits pursuant to Section 3.3 of this Ordinance, and for such other permit matters as the Zoning Administrator may be assigned responsibility by this Ordinance.
 - E. Coordination with Building Official: The Zoning Administrator shall promptly inform the Building Official of all issued and denied zoning compliance permits, and otherwise coordinate with the Building Official with respect to all permit applications reviewed by the Zoning Administrator under this Ordinance that may have implications for the responsibilities of the Building Official.
 - F. Records. The Zoning Administrator shall keep records of all inspections, applications and permits issued, with a notation of all special conditions involved. The Zoning Administrator shall file and safely keep copies of all

plans, and a record of all fees submitted with applications. The same shall form a part of the records of the office and shall be readily available.

- G. Other Duties. The Zoning Administrator shall perform such additional duties related to administration and enforcement of the Zoning Ordinance as are prescribed by law or as may from time to time be assigned by the Township Board.
- H. Meeting Attendance. The Township Board may require the Zoning Administrator to attend meetings of the Township Board, Planning Commission, and Zoning Board of Appeals, and keep the members of same informed of matters pertaining to zoning.

18.4 VIOLATIONS AND SANCTIONS:

- A. Any person who violates, disobeys neglects or refuses to comply with any provision of this Ordinance, any administrative decision made under the Ordinance, or any permit or approval issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance.
- B. Any person responsible for a violation of this Ordinance, whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.
- C. Any violation of this Ordinance shall constitute a basis for injunctive relief to compel compliance with the Ordinance and/or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any other relief or sanction herein set forth or allowed by law.
- D. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum <u>fine</u>
1 st offense	150.00
2 nd offense	325.00
3 rd or subsequent offense	500.00

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township has incurred in connection with the municipal civil infraction.

- 18.5 NUISANCE PER SE: Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which is begun, maintained or changed in violation of any term or provision of this Ordinance, is hereby declared to be a nuisance per se subject to abatement pursuant to MCL 125.3407 and as otherwise provided by law.
- 18.6 AUTHORITY TO COMMENCE LEGAL ACTION: The Township Supervisor, the Zoning Administrator, and such other persons as the Township Board may properly designate, may institute such legal actions or proceedings as may be appropriate to prevent, enjoin, abate, remove or to sanction any violation of this Ordinance; provided that actions in the Circuit Court shall be authorized by the Township Board.
- 18.7 APPLICATION FEES: The Township Board is authorized to establish, by motion, fees for consideration of all applications for a permit or other approval by the Zoning Administrator, Planning Commission, Zoning Board of Appeals, or Township Board under this Ordinance or a related statute, including but not limited to: zoning compliance permit, special land use permit, site plan review, variance, ordinance interpretation, appeal of Zoning Administrator determination, rezoning of property, amendment of Zoning Ordinance text, or amendment of Land Use Plan/Master Plan (text or map). The fees may be established at different levels for matters being considered at a regular meeting and matters being considered at a special meeting; and may be established as a flat fee or based on all actual costs incurred by the Township with respect to processing and consideration of the matter, with specified deposit and escrow amounts. All such fees applicable to a particular application shall be paid to the Township Clerk in order for the application to be considered administratively complete and processed for consideration. Such fees may be changed by motion of the Township Board at any lawful meeting, and may take effect immediately or upon such later date as the Board may specify.

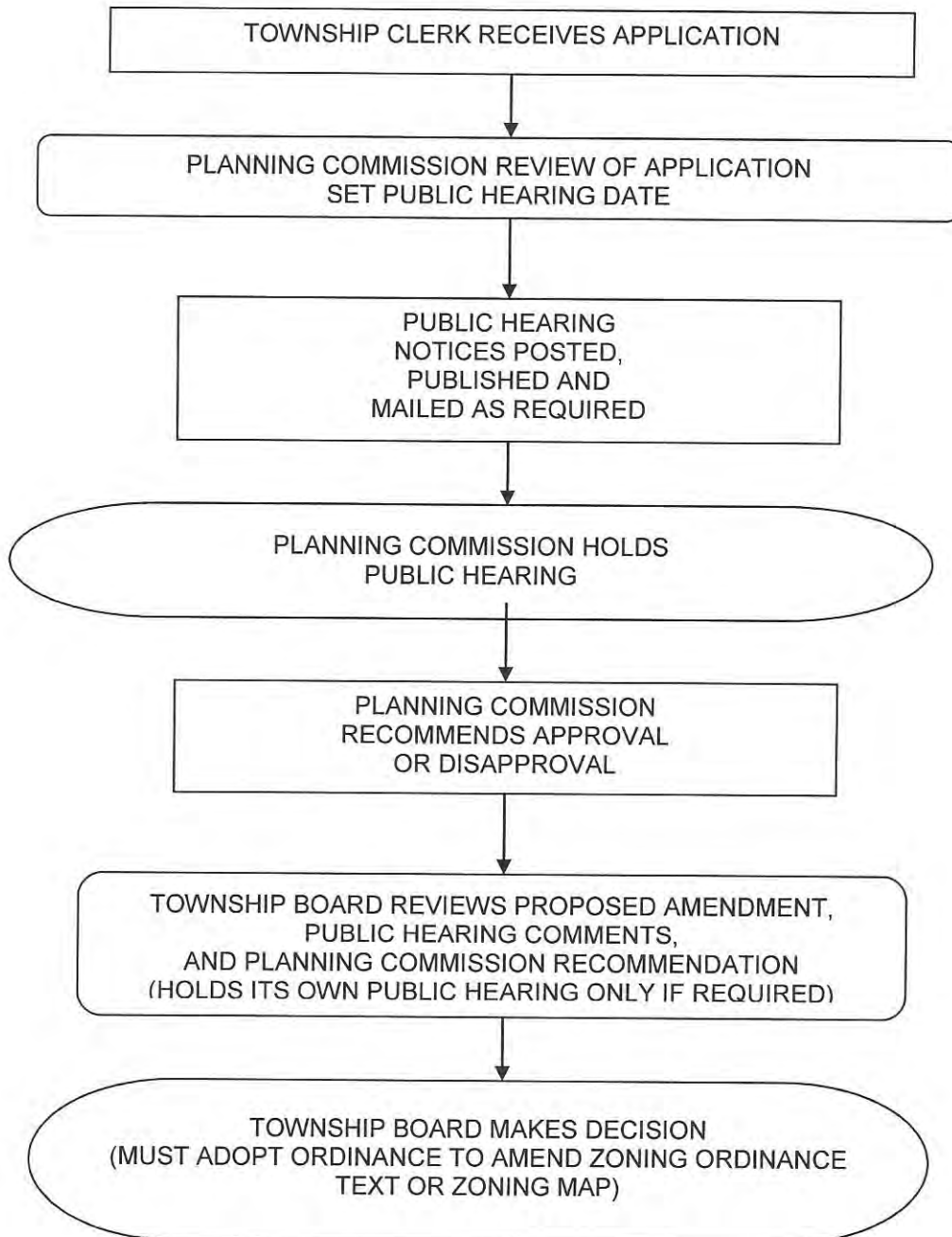
CHAPTER 19

AMENDMENTS AND DISTRICT CHANGES

- 19.1 **INITIATION OF AMENDMENTS:** Amendments of this Ordinance (text or rezoning) may be initiated by the Planning Commission or Township Board, or by any interested person by application.
- 19.2 **AMENDMENT APPLICATION PROCEDURE:** All amendments of this Ordinance initiated by application shall be in writing, signed, and filed with the Township Clerk for presentation to the Planning Commission. Such applications shall include the following:
- A. The applicant's name, address, and interest in the application.
 - B. In the case of a rezoning application:
 - 1. The legal description of the land proposed to be rezoned.
 - 2. All existing street addresses within the property proposed to be rezoned.
 - 3. The present and requested zoning classification of the property proposed to be rezoned.
 - 4. The area of the land proposed to be rezoned, stated in square feet if less than one acre and in acres if one acre or more.
 - 5. A fully dimensioned map showing the property proposed to be rezoned, including all public and private rights-of-way and easements bounding and intersecting same, and showing the zoning classification of all abutting lands.
 - 6. The name, address and interest of every person having a legal or equitable interest in any land which is proposed to be rezoned.
 - C. In the case of a text amendment application, the proposed text to be added and/or the existing text to be revised/deleted.
 - D. The changed or changing conditions in a particular area or in the Township generally that make the proposed rezoning or text amendment reasonably necessary to the promotion of the public health, safety, and general welfare.
 - E. All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment.

19.3 AMENDMENT PROCEDURE: After initiation, amendments to this Ordinance shall be considered as provided in Public Act No. 110 of 2006, as may be amended, and any other applicable laws.

**FLOW DIAGRAM FOR AMENDMENTS OF ZONING
ORDINANCE TEXT OR ZONING MAP (REZONING)**



CHAPTER 20

EFFECTIVE DATE/REPEAL; MISCELLANEOUS

- 20.1 EFFECTIVE DATE/REPEAL: This Ordinance shall take effect on the eighth day after publication or on such later date as may be required by law; and on such effective date shall be deemed to repeal and supercede in its entirety the former Zoning Ordinance (Ordinance No. 38) and all amendments thereof.
- 20.2 SEVERABILITY: If any section, subsection, clause or provision of this ordinance is declared by a court to be invalid, such decision shall not affect the validity of the ordinance in its entirety or of any part thereof other than that portion declared to be invalid.

Wakeshma Township Clerk

ADDENDUM TO WAKESHMA TOWNSHIP ZONING ORDINANCE

Provisions of the Wakeshma Township Zoning Ordinance that have been amended subsequent to the adoption of Ordinance No. 41 are designated by a numerical footnote in bold brackets included at the end of the amended provision. This Addendum lists the number and adopted/effective dates of each such amendatory ordinance, and also each ordinance amending the Zoning Map (rezonings).

Amendments of Zoning Ordinance Text

(to be added as amendments are adopted)

Amendments of Zoning Map (Rezonings)

(to be added as amendments are adopted)