

**CHAPTER 2
GENERAL PROVISIONS**

SECTION 2.01 AREA, HEIGHT AND USE CONDITIONS AND EXCEPTIONS.

- A. **Required Area or Space.** A lot or lots in common ownership or a yard, court, parking area, frontage, dimension, or other space shall not be divided, altered or reduced so as to make it not in conformance with the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to increase its noncompliance with such minimum requirements.
- B. **Existing Lots of Record.**
1. A lot which is platted, or otherwise lawfully of record, as of the effective date of this Ordinance, may be used as specified in the district, provided the lot can meet the provisions of Section 2.21, Health Department Approval. The main building shall be located on the lot to comply with all yard and setback requirements for the district in which the lot is located, except for the R-1 District as provided for in 2 below. Accessory structures shall meet the setback requirements established by this Ordinance. [Section 2.01.B.1 amended 12/3/03]
 2. In the R-1 District, if the proposed main building or any accessory building does not meet the front or rear yard setback requirements of this Ordinance, such building or structure shall be located on the lot so that it meets at least 80 percent of the front and rear yard requirements of this Ordinance. Side yard requirements shall be met.
- C. If two or more lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment thereto, are in common ownership and adjacent each other or have continuous frontage and which individually do not meet the requirements established for lot width or lot area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of such parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements established by this Ordinance.
- D. **Height Exceptions.**
1. The following buildings and structures shall be exempt from height regulations in all districts: parapet walls not exceeding four feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, elevated water towers, stage towers, scenery lofts,

monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, and television and radio reception and transmission antennas and towers which do not exceed 100 feet in height. **[Section 2.01.D.1 amended 5/5/10]**

2. Additions to existing buildings and structures which now exceed the height limitations of their district up to the height of an existing building or structure on the same lot are permitted if the lot is large enough to encompass a circular area with a radius at least equal to the height of the structure or building.

SECTION 2.02 REQUIRED YARDS OR LOTS.

- A. All lots, yards, parking areas or other spaces created after the effective date of this Ordinance shall comply with the minimum requirements of the district in which they are located.
- B. Computations for minimum lot area shall not include lands used for rights-of-way or easements in favor of that or other properties for a public or private street.
- C. Measurement of minimum lot width shall exclude any part of the lot line which is within a right-of-way or easement for a public or private street.
- D. Required yard setbacks shall be measured from the lot lines. For lots which derive access from, or which are crossed by an easement for private street, or easements for a shared or single-use driveway, the yard setbacks required shall be measured from the edge of the easement.
- E. **Dwellings on More Than One Lot.** If a structure is to be located on two or more lots under single ownership, or if adjacent lots are required to maintain minimum lot area or yard requirements, the entire parcel shall be considered a lot for purposes of this Ordinance and the lots shall be legally and automatically combined into one individual lot. **[Section 2.02.A-E amended 2/1/06]**

SECTION 2.03 PRINCIPAL USE OR MAIN BUILDING ON A LOT.

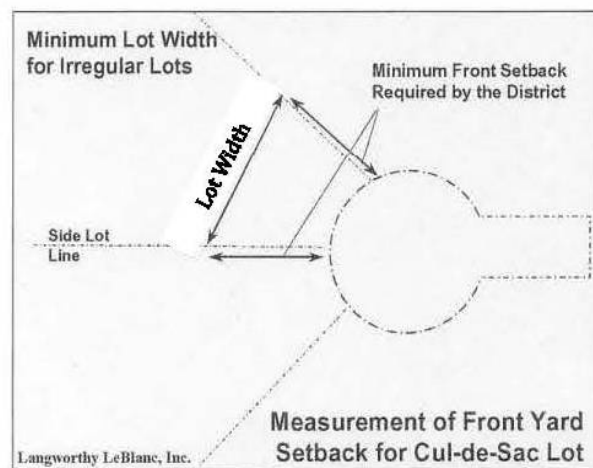
- A. In all districts, no more than one principal use or main building shall be placed on a lot, except for related groups of industrial or commercial buildings, multitenant commercial buildings, or multiple family dwellings, contained within a single, integrated complex, sharing parking, access, and similar site features. **[Section 2.03.A amended 9/2/15]**
- B. If any part of any building is lawfully used for residential purposes and the remainder thereof is lawfully used for business, commercial, or other non-residential use, the part thereof used for residence purposes shall comply with all applicable requirements of the underlying district, if a residential district, and with the requirements of the R-2 District if a non-residential district.

SECTION 2.04 DOUBLE FRONTAGE LOTS.

- A. Buildings having frontage on two intersecting or non-intersecting public or private streets, or on easements for shared or single-use driveways, or a combination thereof, shall comply with front yard requirements from all such streets or easements.
- B. Lot frontage on a lake shall comply with front yard requirements on that part of the lot facing the shoreline. In such cases, the yard opposite the front yard shall be considered the rear yard. [Section 2.04.A-B amended 2/1/06]

SECTION 2.05 MEASUREMENTS OF LOT WIDTH FOR CUL-DE-SACS; MAINTENANCE OF LOT WIDTH.

- A. For a lot which has at least 50 percent of its frontage along the front property line on the turn-around area of a cul-de-sac street, lot width shall be measured as follows: The width shall be measured as a straight line between two points on the side lot lines, located at a distance equal to the minimum front yard setback for the district, measured along the side lot line from the front lot line. For such lots, the lot width measured at a straight line between the two points where the side lot lines intersect the street right-of-way shall be not less than 40 feet.



- B. Subject to A above, minimum lot width shall be maintained throughout the depth of a lot for a distance extending at least to the minimum rear setback line. In the case of a waterfront lot, minimum lot width shall be maintained through the lot. [Section 2.05 amended 4/2/03]

SECTION 2.06 ADDITIONAL SETBACKS FOR STRUCTURES ADJACENT TO TRIBUTARIES OF THE ROGUE RIVER.

- A. Notwithstanding any other provision of this Ordinance, no dwelling, accessory building, or septic system shall be hereafter constructed, erected, installed, or enlarged within a minimum of 100 feet (as measured from the shoreline or ordinary high water mark) of Stegman Creek, Shaw Creek, Rum Creek, and Becker Creek (tributaries of the Rogue River).

B. Vegetative Strip.

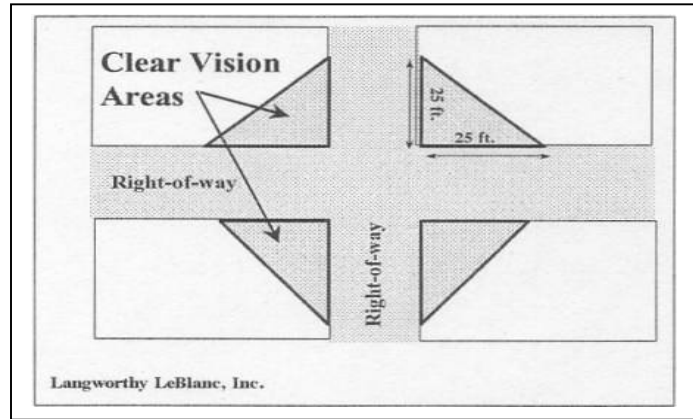
1. A strip 25 feet bordering each bank of Stegman Creek, Shaw Creek, Rum Creek, and Becker Creek, as measured from the shoreline or ordinary high water mark, shall be maintained in its natural vegetative state, except for the permitted clearing of dead or obnoxious plants.
2. The Zoning Administrator may allow limited clearing of the vegetative strip, only when required for construction of a permitted building or structure outside the vegetative strip, provided that the land cleared is returned to a vegetative state which is approximately the same quality and extent as that which existed prior to the clearing.

SECTION 2.07 PROJECTIONS INTO YARDS.

- A. Certain architectural features, such as cornices, bay windows (or windows without foundations), gutters, chimneys, pilasters and similar features may project no further than four feet into a required front or rear yard, and may not project into the required side yard.
- B. Porches, decks, balconies, or window awnings and similar structures.
 1. On non-waterfront lots, an open, unenclosed, and uncovered porch, paved terrace, deck, balcony or window awning, which is constructed more than eight inches above the ground level at which it is installed, may project no further than ten feet into a required front yard, no further than 15 feet into a required rear yard, and shall not project into a required side yard. In no case shall a porch, deck, balcony or awning be placed closer than ten feet to any front or rear lot line.
 2. On waterfront lots, an open, unenclosed, and uncovered porch, paved terrace, deck, balcony or window awning, which is constructed more than eight inches above the ground level at which it is installed, shall meet the front and rear yard setbacks established by existing porches, terraces, decks, balconies and awnings for buildings within 100 feet of the lot line of the proposed structure. No such structure shall project into a required side yard. In no case shall a porch, deck, balcony or awning be placed closer than ten feet to any front or rear lot line.
 3. Notwithstanding subsections B.1 and B.2 a paved terrace, or deck, the top of which is not more than eight inches above the ground level at which it is installed, may extend to within two feet of any lot line.
 4. Patios, sidewalks, driveways, and similar improvements constructed at ground level shall not be subject to the setback requirements.
[Section 2.07.B.1-4 amended 12/3/03]

SECTION 2.08 CLEAR VISION CORNERS.

On any street corner, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 30 inches and eight feet above the established abutting road grade within a triangle formed by the two street right-of-way lines and a line connecting them to points 25 feet from the intersection of the right-of-way lines.



SECTION 2.09 CONTROL OF HEAT, GLARE, FUMES, DUST, NOISE, VIBRATION AND ORDERS.

Every use shall be so conducted and operated such that it is not obnoxious or dangerous by reason of heat, glare, dust, noise, vibration or odors beyond the lot on which the use is located.

SECTION 2.10 TEMPORARY USES OR STRUCTURES REQUIRING ZONING ADMINISTRATOR AUTHORIZATION.

A. Temporary Offices.

1. Upon application, the Zoning Administrator may issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located. Each permit shall be valid for a period of not more than six calendar months and may be renewed by the Zoning Administrator for one additional successive period of six calendar months or less at the same location if such building or yard is still incidental and necessary to construction at the site where located.
2. Upon application, the Zoning Administrator may issue a permit for a temporary sales office or model home which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall specify the location of the office and area and shall be valid for a period of not more than six calendar months and may be renewed by the Zoning Administrator for two additional successive periods of six calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project.

B. Temporary Mobile Homes as Residences.

1. The Zoning Administrator may issue a permit to an individual to park and occupy a temporary mobile home in any district provided that the Zoning Administrator makes the following determinations:
 - a. The mobile home will be used only as a temporary use on the same lot while the individual is constructing a permanent residence.
 - b. A building permit has been issued for the construction of a permanent residence to the individual applying for the temporary mobile home permit.
 - c. The mobile home dwelling meets the requirements of the Kent County Health Department and all applicable Township ordinances.
 2. Upon applying for a temporary mobile home permit, the applicant shall pay a fee to the Zoning Administrator as determined by the Township Board. The permit fee shall be remitted to the Township Treasurer. All original mobile home permits shall be limited to a period of six months. If the permanent residence is not approximately 50 percent complete, as determined by the Zoning Administrator, within the six-month period, a six-month extension or less shall be permitted by the Zoning Administrator only for the purpose of completing the residence.
 3. Upon the filing of an application for continuation of any mobile home permit, the applicant shall pay a fee, as determined by the Township Board; and such fee shall be remitted to the Township Treasurer. Such fee shall be for the consideration of such application, and no refund shall be made in the event of denial.
- C. In considering authorization for all temporary uses or structures, the Zoning Administrator shall consider the following standards:
1. That the use or structure does not have an unreasonable detrimental effect upon adjacent properties.
 2. That the use or structure is reasonably necessary for the convenience and safety of the construction proposed.
 3. That the use or structure does not impact the nature of the surrounding neighborhood.
 4. That access to the use area or structure is located at the least offensive point.
- D. The Zoning Administrator may attach reasonable conditions to temporary uses or structures to ensure that the standards of this section are met.

SECTION 2.11 ACCESSORY USES.

- A. In any district, accessory uses, incidental only to a permitted use, are permitted when located on the same property; provided that such accessory uses shall not involve the conduct of any business, trade or industry. This provision shall not mean the exclusion of home occupations as regulated by Section 2.15, nor shall it exclude the operation of a garage or yard sale in any residential district, provided that such sale is not operated for more than a total of five days within any 30 day period.
- B. Gardening and the keeping of domestic or farm animals shall be considered customary to, and commonly associated with, the operation of the permitted uses or special land uses; subject to the requirements of Sections 2.25.
- C. No accessory use shall be established on any lot unless a principle use has been established on the same lot. **[Section 2.11.C added 10/6/93]**

SECTION 2.12 ACCESSORY BUILDINGS.

A. General Requirements.

- 1. In any district, except as noted elsewhere, an accessory building may be erected detached from the main building, or it may be erected as an integral part of the main building.
- 2. When erected as an integral part of the main building, it shall comply in all respects with the requirements of this Ordinance applicable to the main building.
- 3. No accessory building shall be erected in the required front yard, except that on lots with frontage on a lake or other body of water and with a single family dwelling in the R-1 District, not more than one accessory building may be erected in the required front yard, but such accessory building shall be located at least 15 feet from the shoreline and shall not exceed 100 square feet in area. **[Section 2.12.A.3 amended 10/6/93]**
- 4. The distance between detached accessory buildings or garages and the main building or buildings shall not be less than ten feet. Accessory buildings or garages shall be considered as attached to the main building when the distance between structures is solidly covered by a breezeway, portico, covered colonnade, or similar architectural device, not greater than 15 feet in length. **[Section 2.12.A.4 amended 12/3/03]**
- 5. An accessory building in the R-1 District may be erected or placed on a lot without a main building provided that all of the following conditions are present in addition to any other applicable requirements for accessory buildings:

- a. That the accessory building meets all of the setback requirements of a main building.
 - b. That the accessory building, when constructed, is accessory to a main building on a lot under the same ownership as the lot on which the accessory building is to be located.
 - c. That the lot on which the accessory building is to be placed is no greater than 100 feet, as measured from the nearest point of each lot, from the lot on which the main building is located.
 - d. The accessory building meets all of the applicable requirements of this section.
 - e. An accessory building in the R-1 District may be erected or placed on a lot without a main building provided that the accessory building meets all of the setback requirements of a main building.
- B. Accessory buildings shall be permitted within the R-R, R-1, and R-2 Districts or with any residential use provided that the following restrictions are met: (3-1-2000)
- 1. In the R-1 District, only one detached accessory building shall be permitted. In the other zoning districts, on a lot with a lot area less than three acres, no more than two detached accessory buildings shall be permitted. On lots three acres in area or greater, there shall not be a limit on the number of accessory buildings, except that lot and yard area coverage requirements shall apply. **[Section 2.12.B.1 amended 12/3/03]**
 - 2. In the R-1 District, the GFA of a detached accessory building shall not be restricted, except that the total lot coverage requirements (including main building and all accessory buildings) of the district shall not be exceeded, and the height of the accessory building shall not exceed 15 feet.
 - 3. In the R-R and R-2 Districts, the GFA of accessory buildings shall not exceed the following:
 - a. On lots of less than three acres: 2,400 square feet.
 - b. On lots of three acres or more: unlimited, except setbacks as described in B.6 and district requirements for maximum lot coverage shall apply.
 - 4. An accessory building located in the rear yard shall not occupy more than 25 percent of the required rear yard area.
 - 5. Accessory buildings in excess of 120 square feet must be designed, constructed, and finished such that the exterior appearance is compatible

in terms of materials, color, and general construction with that of the main building, except those used in farming operations. (2-16-99)

6. No detached accessory building shall be located closer than ten feet to any main building. The drip edge of any detached accessory building shall not be located closer than ten feet to any side lot line or 25 feet from the rear lot line. (Also see Section 2.25.B.3 and 4, Keeping of Animals) (4-2-97)
7. Accessory buildings shall be set back an additional two feet from the minimum setback for each additional one foot of building height in excess of 20 feet. Maximum accessory building height shall be 35 feet, except for those used in farming operations, which may be as high as reasonably necessary. **[Section 2.12.B.7 amended 12/3/03]**
8. The use of any unfinished basement or finished basement without a direct outside access shall be prohibited for use as a dwelling unit. Any dwelling without a full floor above grade shall be considered a basement dwelling.

C. **Other District Accessory Buildings and Structures.** Accessory buildings shall be permitted within the C and I Districts provided that the following restrictions are met:

1. No more than two detached accessory buildings shall be permitted on any lot.
2. The total area of all accessory buildings shall not exceed 25 percent of the floor area of the main building(s).
3. Detached accessory buildings shall meet all setback requirements for the district in which it is located.
4. No detached accessory building shall be located nearer than ten feet to any main building.
5. No accessory building shall exceed the permitted height for main buildings in the district in which it is located, as measured from the average grade to the highest point of the roof.

D. **“Temporary” Buildings and Structures.**

1. The provisions of this Ordinance for accessory buildings and structures are fully applicable to any structure erected or placed upon property, regardless of whether it is temporary in nature, or whether it is designed to be readily assembled and disassembled. By way of example, and not by way of limitation, the provisions of this Ordinance for accessory buildings are applicable to shelters and constructed of tubes and tarp material as a shelter for vehicles, boats or other belongings. **[Section 2.12.D.1 amended 12/3/03]**

SECTION 2.13 FENCES.

- A. Fences in any residential district shall not exceed six feet in height, or eight feet in height in any non-residential district, measured from the surface to the uppermost portion of the fence.
- B. Fences erected within the required front yard in any district shall not exceed three feet in height, except when used to enclose vacant land or land used for agricultural purposes, which may be up to six feet in height. Fences within the required front yard shall be of a type which is not more than 25 percent solid, so as not to obscure vision at the right-of-way or property line of the lot or parcel on which it is placed.
- C. Fences in non-residential districts which enclose storage lots or other areas requiring security may contain barbed wire, provided that the barbed portion of the fence not be nearer than six feet from the surface of the ground.
- D. Fences shall not be erected within any public right-of-way in any district.
- E. Fences shall not be erected or maintained in any district in such a way as to obstruct the vision of vehicle drivers within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two points located on those intersecting right-of-way lines 25 feet from the point of intersection with the right-of-way lines.

SECTION 2.14 SWIMMING POOLS.

- A. Pools used for swimming or bathing shall be in conformity with the requirements of this section; provided, however, these regulations shall not be applicable to any such pool less than 24 inches deep or having a surface area less than 250 square feet, except where such pools are permanently equipped with a water recirculating system or involve structural materials.
- B. A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged or altered until a building permit has been obtained.
- C. The outside edge of the pool wall shall not be located closer than ten feet from any rear or side property line. Swimming pools shall not be located in the front yard.
- D. Each pool shall be enclosed by a fence or wall with a height of at least four feet, sufficient to make such body of water inaccessible to small children. Such enclosure, including gates therein, must be not less than four feet above the underlying ground; all gates must be self-latching with latches placed four feet above the underlying ground or otherwise made inaccessible from the outside to small children.

- E. All swimming pool installations shall comply with the State Construction Code and all standard codes referred to therein.

SECTION 2.15 HOME OCCUPATIONS.

All home occupations shall be subject to the following restrictions and regulations:

- A. The home occupation shall be conducted within the main and accessory buildings and only by a person resident in the building; except that not more than one person may be employed who is not a resident of the premises. In the R-1 and R-2 Districts the home occupation shall only be conducted in the main building; use of an accessory building is not permitted.
- B. No motor other than electrically operated motors shall be used in conjunction with such home occupation. All motors and equipment used in the conduct of any home occupation shall be shielded so as not to cause radio or television interference, and shall comply with the Township noise ordinance. **[Section 2.15.B amended 9/2/15]**
- C. There shall be no exterior alteration in the residential character of the premises in connection with such home occupation and no more than 20 percent of the living area of the dwelling shall be devoted to such home occupation.
- D. No merchandise or articles for sale shall be displayed for advertising purposes so as to be viewable from outside the main building and no sign or device relative to the sale of such merchandise shall be displayed on the premises.
- E. All articles or materials used in connection with such home occupation shall be stored in the main and accessory buildings. No outside storage is permitted.
- F. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be provided off the street and not within the required front yard.
- G. There shall be no sale of products or services except as are produced on the premises by such home occupation, except that products not produced on the premises that are incidental to services being performed as a part of the home occupation may be sold in limited quantities.

SECTION 2.15A BED AND BREAKFAST AS A HOME OCCUPATION

- A. A bed and breakfast may be established in the R-R Rural Residential District upon issuance of a zoning compliance permit.
- B. The establishment and operation of a bed and breakfast shall be subject to the following requirements:

1. The establishment shall be located in a single-family detached dwelling. Other than sleeping rooms and attached baths, the living, cooking and dining areas in the dwelling shall be common, not available on a segregated basis to an occupant.
2. The establishment shall be located in the bona fide residence of the operator. The operator shall reside and sleep in the establishment at all times when guests are present.
3. The number of guest rooms in an establishment shall not exceed two for a property which is two acres in area or less, or four for a property greater than two acres in area.
4. At least one off-street parking space per room available for rent shall be provided, in addition to the two required for a single-family dwelling. Parking shall be provided in areas with a hard durable surface, and shall not be located in a required rear or side yard or between the main building line and the street.
5. Meals, if served, shall be served only to the operator's family and overnight guests.
6. The maximum stay for any occupant, excluding the owner's family, shall be 10 consecutive days, not to exceed 30 days in any 12 month period.
7. No exterior evidence that the facility is a bed and breakfast shall be permitted, except for signs as permitted for home occupations.
8. Guests may not bring their own motorized watercraft to be launched from or docked at the property. The operator of the establishment may make their own motorized or non-motorized watercraft or water toys available to guests.
9. The operator shall register for and pay the applicable Kent County accommodations tax.
10. The facility shall comply with all applicable building and fire codes, and be approved by the building inspector and fire department.
11. The establishment shall not be rented as a venue for weddings, parties or similar events.
12. The Zoning Administrator may temporarily or permanently revoke the Zoning Compliance permit for a bed and breakfast, subject to appeal to the Zoning Board of Appeals. In addition, violation of the conditions of operation constitute a violation of this ordinance.

[Section 2.15A, Bed and Breakfast as a Home Occupation, Added 10/3/18]

SECTION 2.16 RESIDENTIAL GENERALLY.

Residential structures, or buildings accessory thereto and additions to the same, may not be used for commercial or industrial purposes, except as may be permitted in Section 2.15.

SECTION 2.17 MECHANICAL APPURTENANCES.

Mechanical appurtenances shall not be closer than 20 feet to adjoining properties.

SECTION 2.18 DISH ANTENNA.

- A. A dish antenna may be mounted on the roof of a main or accessory building provided it shall not exceed a height of five feet above the peak of the roof of the building, including the mounting structure.
- B. Dish antennas are permitted in all districts upon approval of the Building Inspector, provided the setback requirements of Section 2.12 for detached accessory buildings are maintained and the following conditions satisfied:
 - 1. The antenna shall be permanently anchored to a foundation.
 - 2. No portion of the antenna shall conduct or display any advertising, message, or other graphic representation intended for commercial purposes other than the manufacturer's name.
 - 3. No dish antenna shall exceed a height of 15 feet, including its mounting structure.
 - 4. No dish antenna shall be located in any front yard.
- C. If the antenna is to be located in the side yard, or in the rear yard on the street side of a lot, the Zoning Administrator may require that a landscape screen be installed around the antenna to obstruct the view of the antenna from adjoining properties or from the street.
- D. The Zoning Administrator is authorized to alter any requirement of this section if its enforcement inhibits or prevents the proper use or reception of signals of the dish antenna. **[Section 2.18.D amended 2/25/97]**

SECTION 2.19 ESSENTIAL PUBLIC SERVICE EQUIPMENT.

- A. Essential public service equipment is permitted in all zoning districts in the Township.
- B. Electrical substations and/or gas distribution system regulator stations shall be enclosed with a fence or wall six feet high and adequate to obstruct passage of persons or materials.

- C. Essential public service equipment shall be constructed and maintained in a neat and orderly manner. [Section 2.19 amended 7/2/14]

SECTION 2.20 GOVERNMENTAL IMPROVEMENTS.

The provisions of this Ordinance shall be applicable to and enforceable against the Township itself and all other governmental agencies and units, federal, state or local.

SECTION 2.21 HEALTH DEPARTMENT APPROVAL.

No permit shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities located therein and which is to be located on a lot which is not served by both public water and sewer facilities if its water supply and/or sewage disposal facilities do not comply with the rules and regulations governing waste and sewage disposal in Kent County.

SECTION 2.22 RESERVED.

[Section 2.22 repealed 9/2/15]

SECTION 2.23 RESERVED.

[Section 2.23 repealed 9/2/15]

SECTION 2.24 NONCONFORMING USES, BUILDINGS OR STRUCTURES.

- A. **Continuance of Nonconforming Uses.** Except where specifically provided to the contrary, and subject to the provisions of this section, the lawful use of any building or structure or of any land or premises 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 does not conform with the provisions of this Ordinance or any amendment thereto.
- B. **Continuance of Buildings or Structures.** Except where specifically provided to the contrary and subject to the provisions of this section, a building or structure 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 maintained and continued even though such building or structure does not conform with the provisions of this Ordinance or any amendment thereto.
- C. **Expansion.** Structures, buildings or uses nonconforming by reason of height, area and/or parking and loading space provisions only may be extended, enlarged, altered, remodeled or modernized when the following conditions are met:
 - 1. The building or structure shall comply with all height, area, and/or parking and loading provisions with respect to such extension, enlargement,

alteration, remodeling or modernization, except as noted in Section 2.01.D.2.

2. The Zoning Administrator shall determine that such alteration, remodeling, or modernization will not substantially extend the life of any nonconforming building or structure.
3. Any use of a building or structure which is nonconforming by reason of parking and loading provisions and which is thereafter made conforming or less nonconforming by the addition of parking and/or loading space shall not thereafter be permitted to use such additionally acquired parking and/or loading space to meet requirements for any extension, enlargement, or change of use which requires greater areas for parking and/or loading space.
4. No nonconforming use of any land or structure shall hereafter be enlarged or extended except after the approval of the Zoning Board of Appeals and which approval shall be granted only upon a finding of all of the following facts:
 - a. That the enlargement or extension will not substantially extend the probable duration of such nonconforming use and that all enlargements since the use became nonconforming are upon and limited to the same parcel the nonconforming use was located on at the time of the adoption of the existing Courtland Township Zoning Ordinance.
 - b. That the enlargement or extension will not create requests for variances in the area.
 - c. That the enlargement or extension will not interfere with the use of other properties in the vicinity for the uses for which they have been zoned nor with their use in compliance with all of the provisions of this Ordinance.

D. Restoration and Repair.

1. Subject to the provisions of this section, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.
2. All repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made but it shall not be structurally altered to permit the use of such building or structure beyond its natural life except for repairs necessary to maintain public safety.
3. In the event any non-residential nonconforming building or structure is damaged by fire, wind, Act of God or public enemy, it may be rebuilt or restored if the cost thereof does not exceed 50 percent of the true cash

value of the nonconforming building or structure prior to its damage or destruction.

4. In the event any non-residential nonconforming building or structure is damaged by fire, wind, Act of God or public enemy such that the cost of restoration or repair would exceed 50 percent of the true cash value of the nonconforming building or structure prior to its damage or destruction, a substantial improvement or rebuilding shall only be permitted if first authorized by the Zoning Board of Appeals. In considering such authorization, the Board of Appeals shall consider the following standards:
 - a. Whether such substantial improvement will significantly extend the probable duration of the nonconforming use.
 - b. Whether or not the land previously occupied by the nonconforming use can be reasonably used for a use permitted in the applicable district.
5. In the event any residential nonconforming building or structure is damaged by fire, wind, Act of God or public enemy such that its replacement cost would exceed 50 percent of the true cash value of the nonconforming building or structure prior to its damage or destruction, it may be rebuilt or restored provided that all yard and requirements of the district in which it is located are met, or the necessary variances obtained from the Zoning Board of Appeals.
6. In the event any residential nonconforming building or structure is damaged by fire, wind, Act of God or public enemy such that its replacement cost is less than 50 percent of the true cash value of the nonconforming building or structure prior to its damage or destruction, it may be rebuilt or restored in its original nonconforming condition.

E. Change or Discontinuance.

1. The nonconforming use of a building or structure or of any land or premises shall not be:
 - a. Changed to any other nonconforming use.
 - b. Re-established after it has been changed to a conforming use.
 - c. Re-established after abandoned or discontinued for a continuous period of 12 months. A nonconforming use shall be determined to be abandoned if one or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
 - (1) Utilities, such as water, gas and electricity to the property, have been disconnected;

- (2) The property, buildings, and grounds, have fallen into disrepair;
- (3) Signs or other indications of the existence of the nonconforming use have been removed;
- (4) Removal of equipment or fixtures which are necessary for the operation of the nonconforming use;
- (5) Other actions, which in the opinion of the Zoning Administrator, constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.

F. **Building or Structure Under Construction on Effective Date of Ordinance.** Any building or structure shall be considered existing and lawful for purposes of Section 2.24.A if, on the effective date of this ordinance, or an amendment thereto, a building permit has been obtained therefor, if required, and substantial physical construction has commenced such that the property has attained vested right status in accordance with Michigan law. **[Section 2.24.F amended 9/2/15]**

G. **Nonconformance Under Previous Zoning Ordinances.** Any structures or uses which fail to conform to the previous Courtland Township Zoning Ordinance, were not permissible, nonconforming uses or structures thereunder, and which violate the within Zoning Ordinance shall not be considered permissible nonconforming uses under the within Ordinance but shall be considered impermissible nonconforming uses and subject to the provisions of Chapter 15.

SECTION 2.25 KEEPING OF ANIMALS AND PETS.

- A. No more than three adult (six months of age or older) dogs shall be kept or housed for each dwelling unit in any residential district.
- B. Any other provision of this Ordinance notwithstanding, the keeping, housing, raising, or use of medical care for fowl or animals other than house pets of an occupant of the premises, is subject to the following provisions:
 1. On lots of one-half acre, but less than one acre: raising and keeping fowl and/or rabbits and/or other small animals for pets, not to exceed three per family;
 2. On lots of greater than one acre, but less than two acres: raising and keeping fowl and/or rabbits and/or other small animals commonly raised for human consumption in numbers no greater than is required to satisfy the personal needs of the human occupiers of the premises;
 3. On lots of two acres to ten acres; the uses permitted by paragraph 2, above; and one horse, or one cow, or one pig for each acre, or part thereof, provided that any pig pen or building or structure housing these animals,

or area used for storage, disposal, or composting of animal waste, shall be a minimum of 50 feet from any property line.

4. On lots of greater than ten acres the restrictions of Section 2.25.B.1-3 do not apply, except that any open pen, building, or structure housing these animals, or area used for storage, disposal, or composting of animal waste, shall be a minimum of 50 feet from any property line. **[Section 2.25.B.3-4 amended 12/3/03]**
 5. A commercial kennel or riding stable need not provide over four acres for such use, and further provided that animal hospitals or veterinary clinics need not provide more area than required in the district in which it is permitted.
- C. Where animals other than house pets of the owner or occupant of the premises are kept or allowed outside, a fence of such construction as to keep said animals from leaving the premises at will shall be provided and regularly maintained.
- D. This section shall be applied only to the extent consistent with the Michigan Right to Farm Act and any generally accepted agricultural management practices adopted thereunder. **[Section 2.25.D added 9/2/15]**

SECTION 2.26 MINIMUM REQUIREMENTS FOR DWELLINGS OUTSIDE MANUFACTURED HOUSING COMMUNITIES.

- A. All dwelling units located outside of manufactured housing communities shall comply with the following requirements:
1. The minimum width of any single-family dwelling unit shall be 20 feet for at least 67 percent of its length, measured between the exterior part of the walls having the greatest length.
 2. There shall be a foundation of concrete or block around the entire exterior perimeter of all dwellings. The foundation shall have a minimum depth of 42 inches below grade. The foundation shall provide a maximum exposed foundation above grade of 16 inches and a minimum exposed foundation above grade of eight inches. The Building Inspector may permit a lesser requirement, based on soil conditions, building type, topography, and any other relevant factor.
 3. All dwellings without basements shall provide a crawl space below the entire floor of the dwelling two feet in depth with a vapor barrier consisting of two inches of concrete on the floor of the crawl space. The crawl space shall also be provided with adequate drains to drain any accumulation of water in the crawl space. The Building Inspector may allow an alternative building plan to be utilized if consistent with the approved construction code of the Township.

4. All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code currently adopted by the Township, or if a manufactured home shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction and Safety Standards."
5. The wheels, pulling mechanism and tongue of any manufactured home shall be removed prior to placement on a foundation.
6. All dwellings shall be connected to a public sewer system and water supply system and/or a well or septic system approved by the Kent County Health Department.
7. All dwellings shall provide steps or porch areas, permanently attached to the foundation, where there exists an elevation differential of more than one foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
8. All additions to dwellings shall meet all of the requirements of this Ordinance.
9. All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity.
 - a. The compatibility of design and appearance shall be determined in the first instance by the Building Inspector upon review of the plans submitted for a particular dwelling.
 - b. An appeal by an aggrieved party may be taken to the Zoning Board of Appeals. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design and appearance of residential dwellings located outside of manufactured home parks within 500 feet of the subject dwelling.
 - c. The pitch of the main roof of the dwelling unit shall not be less than three feet of rise for each 12 feet of horizontal run, and shall have not less than an eight inch overhang around the entire perimeter of the home.
 - d. Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan, adequate to illustrate compliance with the requirements of this Ordinance shall be submitted to the Building Inspector. If the dwelling unit is a manufactured home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to manufactured homes set forth in Section 2.26.A of this Ordinance. **[Section 2.26.A.1-9.a-d amended 12/3/03]**

- B. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
- C. Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan, adequate to illustrate compliance with the requirements of this Ordinance shall be submitted to the Building Inspector. If the dwelling unit is a manufactured home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to manufactured homes set forth in Section 2.26.A of this Ordinance.
- D. All manufactured homes shall meet the standards for manufactured home construction contained in the United States Department of Housing and Urban Development Regulations entitled “Mobile Home Construction & Safety Standards” effective June 15, 1976, as amended. All other dwellings shall meet the requirements of the construction code adopted by the Township.

SECTION 2.27 RIPARIAN ACCESS.

The following restrictions are intended to limit the number of users of lake or stream frontage in order to preserve the quality of the waters, to promote safety, and to preserve the quality of recreational use of all waters within the Township.

- A. In all districts there shall be at least 80 feet of lake, river, or stream frontage, as measured along the ordinary high water mark of the lake, river, or stream, for each single family dwelling, two-family dwelling unit, or multiple-family dwelling unit utilizing or accessing the lake, river, or stream frontage. For example, a multiple family building with four dwelling units would require 320 feet of lake, river, or stream frontage in order for all four dwelling units to gain access to the lake, river, or stream.
- B. The restrictions of this section shall apply to all lots and parcels on or abutting any lake, river, or stream in all districts, regardless of whether access to the lake, river, or stream waters shall be by easement, park, common-fee ownership, single-fee ownership, condominium arrangement, license, or lease. [Section 2.27.A-B amended by Ord. No. 94-17]

SECTION 2.28 RESERVED.

[Section 2.28 repealed 9/2/15]

SECTION 2.29 SEE 2.291-2.298 BELOW.

SECTION 2.291 PRIVATE STREETS.

- A. **Purpose.** It is the public policy of the Township that all new developments should be served by public streets, to promote the interest of public health, safety, and welfare, and to promote efficient traffic circulation. The Township

recognizes, however, that there will be rare instances in which a public street system cannot be constructed, because of the shape of the property, its location, or natural features. Also, in some rare cases, construction to public street standards may have a negative impact upon significant natural features, to an extent that the negative impact would offset any benefit of a public road. The Township also recognizes that there are pre-existing private streets in the Township, and it is in the public interest to regulate the extension and maintenance of those existing streets. Accordingly, these provisions have been enacted to ensure that private streets, where permitted:

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

B. Definitions.

1. “Driveway” means an undedicated, privately controlled and maintained right-of-way or other interest in land that provides the means of access to fewer than three lots or parcels.
2. “Frontage” means that portion of a lot or parcel abutting upon a public or private street right-of-way. Minimum lot width is the horizontal straight line distance between the two points where the side lot lines intersect the road right-of-way line.
3. “Parcel” means a tract of land which can be legally described with certainty and is capable of being located by survey.
4. “Private street” means an undedicated, privately controlled and maintained right-of-way or other interest in land that provides the means of access to three or more lots or parcels. The term “street” shall be synonymous with the terms road, avenue, place, way, drive, lane, boulevard, highway or other thoroughfare.
5. “Road Commission” means the Kent County Road Commission.
6. “Safe and unimpeded route of travel” shall mean a roadway of adequate width to accommodate the safe, two-way passage of vehicles, and of

sufficient construction to accommodate any fire, police, rescue, or other emergency vehicle which may be utilized by the Township.

C. Frontage and Access.

1. Any lot created after November 21, 2000, shall have access and frontage as follows:
 - a. The lot shall have frontage on a public road, and a lot width on the side abutting the road, at least equal to that required for the zoning district; or
 - b. The lot shall have frontage on a private street approved as a special land use by the Township Board in accordance with this section, and a lot width on the side abutting the road, at least equal to that required for the zoning district; or
 - c. The lot shall have frontage on a private street which was lawfully existing prior to November 21, 2000, which complies with the provisions of this Ordinance for extensions or addition of lots to existing private streets, and a lot width on the side abutting the road, at least equal to that required for the zoning district; or
 - d. The lot shall have access provided by a driveway that complies with this Ordinance, and the narrowest property boundary line shall have a length at least equal to the minimum lot width required for the zoning district. **[Section 2.291 added 4/2/03]**

SECTION 2.292 SPECIAL LAND USE APPROVAL FOR NEW PRIVATE STREETS.

- A. A newly constructed private street may be permitted upon approval of a special land use, if one or both of the following conditions are demonstrated by the applicant, to the satisfaction of the Township:
 1. That the Road Commission would refuse to accept responsibility for any public road system that could be constructed to serve the property in question. In making this determination, the Township is not bound to accept the preferred street and lot layout proposed by the applicant, and the Township may require that the applicant submit alternate street layout plans to the Road Commission for the purpose of determining whether any layout would be approved. Additional costs involved with constructing public streets, a reduction in the number of lots which could be served by public street system that would be approved, or a preference for private streets do not justify approval of a special land use. In making this determination, Township officials or agents may seek verification directly from the Road Commission.

2. Topography, soils and/or other significant natural features are present, and use of public street standards would create a significant alteration of such natural features, if these conditions affect a continuous length of the proposed private street for more than 25 percent of the total length of the private street, including all of its branches. Such conditions shall be clearly identified and described in this submitted private street site plan and application for the special land use.
- B. In addition, the request for special land use approval shall otherwise be processed and reviewed in the same manner, and subject to the same general standards as provided for in Chapter 12, except that the required site plan shall include the information required by Section 2.293.
- C. Any private street approved as special land use shall meet the design and construction standards in this Ordinance. **[Section 2.292 added 4/2/03]**

SECTION 2.293 APPLICATION FOR APPROVAL FOR PRIVATE STREET.

The following are the requirements for an application for a new private street proposed to be approved as special land use, or for extension of existing private streets:

- A. A completed private street permit application, provided by the Township.
- B. A detailed written description of the development to be served by the private street, including, where applicable, a description of how the proposed private street meets the provisions of Section 2.292, including, but not limited to, what attempts have been made to obtain approval for a public road system.
- C. Ten copies of a site plan, drawn to scale, prepared by a registered engineer, showing the precise location, grade, route, elevation, dimensions, and design of the private street and any proposed extensions thereto, existing and proposed curb cuts, and the location and distance to any public streets which the private street is to intersect. However, the plan may be prepared by a registered surveyor, rather than a registered engineer, if the proposed private street is to serve five or fewer parcels or main buildings, and if the Zoning Administrator waives in writing the requirement for the site plan to be prepared by a registered engineer.
- D. A survey of the right-of-way by a registered surveyor, together with surveys for each parcel to be served by the private street.
- E. The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the private street right-of-way or within 20 feet of either side thereof. Copies of the instruments describing and granting such easements shall be submitted with the application.
- F. The location of any lakes, streams, wetlands, and drains within the proposed right-of-way or within 100 feet thereof.

- G. The location of any other buildings and structures located, or to be located, within 100 feet of the private street right-of-way.
- H. A fee and escrow deposit as established by the Township. **[Section 2.293 added 4/2/03]**

SECTION 2.294 DESIGN REQUIREMENTS.

The following are design requirements for newly established or extended private streets:

A. Construction Specifications and Materials.

- 1. The specifications for surface and base materials and method of construction of private streets shall conform to the Kent County Road Commission standards for public local paved or gravel roads, as applicable, except that private street grades shall not exceed 10 percent.
- 2. Private streets providing access to five or fewer parcels may be constructed as a gravel road.
- 3. Private streets providing access to six or more parcels shall be constructed as a paved road.

B. Length of Private Streets.

- 1. No private street shall extend for a distance of more than 2,640 feet in length from the nearest public street right-of-way from which access is gained, as measured along the centerline of the private street to the furthest point of any private street, except as otherwise noted, without a second private street access complying with this section being provided to another public street.
- 2. The maximum length of a proposed private street may be exceeded if the Township Board, after recommendation of the Planning Commission, finds that at least one of the following conditions exists:
 - a. That topography or other significant natural features preclude access to any other public street or adjoining property on which a public street may be constructed. Such significant natural features shall be clearly identified and marked on the proposed private street plans.
 - b. That not allowing a longer private street would result in inefficient use of land. Alternate development plans demonstrating that no other development is feasible shall be submitted by the applicant and reviewed by the Township Board prior to confirming this finding.

- c. That other methods of access are available such that emergency vehicles are assured a safe and unimpeded route of travel to the properties served by the private street. Such access shall be reviewed by the Fire Chief and the recommendation forwarded to the Planning Commission.
3. The Township Board, upon a finding that at least one of the above conditions exists, shall establish the maximum length of the proposed private street.

C. Right-of-Way/Easement Width; Other Requirements.

1. All private streets constructed after the effective date of this amendment shall have a recorded permanent right-of-way and easement with a minimum width of at least 66 feet. The right-of-way shall also expressly permit public or private utilities to be installed within the right-of-way.
 2. Private streets in existence as of the effective date of this amendment whose right-of-way or easement width is less than 66 feet need not provide additional right-of-way or easement width for the existing portion of the street, provided the right-of-way width is sufficient to accommodate the required roadway and cleared area width. Such right-of-way width shall not be subsequently reduced so as to increase its noncompliance with these requirements.
 3. All private streets shall have access to a public street by a deed, easement, or other legal document. Any private street that intersects with another private street to provide access to the public street is considered to be part of a single private street system for purpose of this Ordinance.
- D. The layout of the private street and the intersections of the private street with either a public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured, as determined by the Township engineer. The minimum distance between intersections of public and/or private street rights-of-way shall not be less than 150 feet, as measured along the right-of-way line thereof.
- E. The applicant shall provide written proof that the location of the intersection of the private street with the public road has been or will be approved by the Road Commission.
- F. Soil erosion and sedimentation control permits shall be obtained from the Road Commission, as may be required by the Soil Erosion and Sedimentation Control Act of 1972, as amended.
- G. All required State of Michigan permits shall be obtained.

- H. Design and construction plans shall be reviewed by the Township’s engineer, planner, or attorney, as directed by the Township Board, prior to approval.
- I. The Township Board may require that the applicant comply with additional reasonable conditions relative to the design and construction of the private street. **[Section 2.294 added 4/2/03]**

SECTION 2.295 DRIVEWAYS.

- A. In this section, “back lot” means a lot which does not abut a public road, and to which access is provided or proposed by an easement connecting the lot to a public road. A “front lot” means property which abuts a public road and is crossed or is to be crossed by an easement to provide access to a back lot. A “back lot easement” means an easement, right-of-way, or similar arrangement to provide access from a back lot to a public street. A “driveway” means a vehicular access route to one or two back lots.
- B. Up to two back lots may be served by a driveway, located within a back lot easement with a minimum width of 66 feet. Back lots served by a driveway complying with this Ordinance shall not be required to have frontage on a public street. A driveway may serve up to two additional front lots contiguous to the driveway easement, without being considered a private road if the additional front lots abut a public street and have lot width measured along the public street equal to the minimum required in the zoning district.
- C. The number of back lot easements which may cross a front lot is limited as follows:
 - 1. No more than one back lot easement is permitted for each front lot with public road frontage of 330 feet or less.
 - 2. For a front lot with a width of 660 feet or greater, one back lot easement may be located within each full 330 foot segment of public road frontage.
- D. If a front lot is divided, or easement created, it must be done to maintain compliance with this section, and the rest of this Ordinance, such as the requirements for required yards in Section 2.01.4.
- E. No building permit shall be issued until approval for a driveway has been granted by the Zoning Administrator under this Ordinance, and Kent County Road Commission as to connection with a public street.
- F. All back lot easements shall have assured legal access to a public street created by a deed, easement, or other legal document. Any back lot easement that intersects with a private street to provide access to the public street is to be considered part of the private street for purposes of this Ordinance.

- G. All new driveways shall have a minimum cleared width of 20 feet. All new driveways serving a single residence shall have a minimum travel surface width of ten feet, and all new driveways shared by more than one residence shall have a minimum travel surface width of 12 feet. Overhead branches shall be kept trimmed to a height of at least 14 feet or as otherwise directed by the Fire Chief. The driveway shall have an improved gravel or paved surface that will provide access in all weather conditions. **[Section 2.295 added 4/2/2003; amended 2/1/06]**

SECTION 2.296 EXISTING PRIVATE STREETS.

- A. **In General.** A private street lawfully existing on January 6, 1993, may continue in existence and be maintained and used, though it may not comply with the provisions of this section. Such private streets shall be continuously maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
- B. **Addition of Lots or Parcels of Land to Existing Private Streets.**
1. For any private street lawfully existing on January 6, 1993, equal to or exceeding 1,040 feet in length, to which one or more additional lots or parcels are created or otherwise permitted access, the entire length of the existing private street shall be upgraded to comply with the applicable requirements of Section 2.294.
 2. For any private street lawfully existing on January 6, 1993, which is less than 1,040 feet in length and to which one or more additional lots or parcels are created or otherwise permitted access to the private street, then the entire length of the existing private street shall be constructed and maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, emergency vehicles in all weather conditions.
- C. **Extension of Private Streets.**
1. If a private street existing on January 6, 1993, is extended by the construction and use of an additional length of private street equaling or exceeding 500 feet, or if the street as extended will exceed 1,040 feet in length, then the entire private street, including the existing portion and the additional portion, shall comply with the applicable requirements of Section 2.294.
 2. If a private streets in existence on January 6, 1993, is extended for a distance of less than 500 feet, and as extended will be less than 1,040 feet in length, then the extension shall be constructed in the same manner as the existing portion of the private street, provided that the entire private street shall be maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.

3. A maintenance agreement complying with this section shall be provided at least for the lands to be served by the extension. **[Section 2.296 added 4/2/03]**

SECTION 2.297 MAINTENANCE AND REPAIRS.

- A. Private streets shall be maintained in a manner that complies with the provisions of this section.
- B. All driveways and private streets shall be continuously maintained in such a way that they will not constitute a danger to the health, safety, and welfare of the inhabitants of the Township. All driveways and private streets shall be continuously maintained in such a way that they assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
- C. All costs for maintenance and repair of the private street shall be the responsibility of the property owners or any property owners association served by the private street.
- D. Private street maintenance or restrictive covenant agreements.
 1. The applicant(s)/owner(s) of the proposed private street right-of-way or private street shall provide the Township Board with a recordable private street maintenance or restrictive covenant agreement between the owner(s) of the private street right-of-way and any other parties having any interest therein, or other documentation satisfactory to the Township Board which shall provide for and assure that the private street shall be regularly maintained, repaired, and snowplowed so as to assure that the private street is safe for travel at all times and the cost thereof paid.
 2. The applicant(s) agree, by filing an application for and receiving a permit under this Ordinance, that they will assure that any building(s) or parcels thereafter created or constructed on the private street shall also be subject to the street maintenance or restrictive covenant agreement and that said agreement shall be recorded and shall run with the land. A copy of said agreement shall be furnished to the Township Board prior to the issuance of the permit. **[Section 2.297 added 4/2/03]**

SECTION 2.298 ADMINISTRATION.

- A. In addition to receiving a special land use when required, no private road shall be constructed or extended, without obtaining a permit from the Township Board, upon demonstrating compliance with all requirements for the private road.
- B. The Building Inspector shall not issue a building permit for construction of any building or structure on a lot which is to be served by a new public or private street, an extended public or private street, a public or private street required to be

upgraded to serve a new lot until the road has received a certificate of compliance. From the Township for any private street, or has received approval from Kent County Road Commission for any public street.

- C. In the alternative, building permits may be issued for up to 50 percent of the lots to be served by the new or extended private street, if:
 - 1. A surface is installed that will permit a safe and unimpeded route of travel, as approved by the Township Fire Chief and engineers.
 - 2. A performance guarantee in an amount sufficient to guarantee completion of the private street, as determined by the Township and its engineers, is provided. Any performance guarantee is to be submitted and administered in accordance with Section 15.08 of this Ordinance.
 - 3. No certificate of occupancy shall be issued for any lots served by a newer or extended private street, until a certificate of compliance has been issued. **[Section 2.298 added 4/2/03]**

SECTION 2.30 CONSTRUCTION SITE ACCESS.

- A. A roadway and/or driveway shall be provided for emergency and fire department vehicles from the nearest available right-of-way to a construction site prior to any structural framing being done involving combustible materials.
- B. The roadway and/or driveway shall be reasonably level with a total cleared area of 14 feet in width and suitable for traverse by emergency and fire department equipment. Access of roadways and/or driveways must be maintained year-around to accommodate use of emergency and fire vehicles.

SECTION 2.31 STORAGE OF RECREATION EQUIPMENT.

- A. Recreational equipment may be located outside of an enclosed building on any lot within a residential district provided that the following requirements are met:
 - 1. In the R-1 and R-2 Districts, recreational equipment shall not be located in any front yard, or in any required side or rear setback. In the other zoning districts, recreational equipment shall not be located in any required setback area. This subsection is subject to subsection 2 below.
 - 2. On lots that have frontage on a lake, subsection 1 shall not prohibit the storage of boats owned by the owner of the lot in the front yard. In addition, boats owned by the owner of the lot may be stored in a side yard setback during the months of September through April, provided there is sufficient passage area for emergency personnel. In addition, on lakefront lots, recreational vehicles may be stored in the rear yard up to a point that is not less than five feet from the edge of the improved roadway.

3. Recreational equipment shall not be used for living or housekeeping purposes unless within an approved campground. **[Section 2.31.A amended 12/3/03]**
 4. Not more than three items of recreational equipment may be stored outside of a fully enclosed building. Multiple items in or on a single trailer are considered one item for this purpose. **[Section 2.31.A.4 added 9/2/15]**
- B. Where physical features of a property, such as, but not limited to, immovable structures, or a tree with a diameter of four inches or greater, prohibit a recreational vehicle from being parked in compliance with this section, the owner may apply to the Zoning Administrator for a permit to park the recreational vehicle on the lot. This permit shall be granted, provided that the following requirements are met: (2-16-99)
1. A 20-foot setback shall be maintained from the recreational vehicle to the edge of the street pavement or curb; or, if a sidewalk exists, the 20-foot setback shall be measured from the inside edge of the sidewalk.
 2. Parking approval, if granted by the Zoning Administrator, shall be effective for up to five years following the date of issuance. Additional approvals may be granted by the Zoning Administrator in accordance with this section.

SECTION 2.32 STORAGE AND REPAIR OF VEHICLES.

- A. The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential district, when such work is not conducted entirely within the interior of a building, shall be subject to the following limitations:
1. Procedures or projects exceeding 48 hours in duration or which require the vehicle to be immobile or inoperable in excess of 48 hours shall be carried out within a garage. Only one such period shall be permitted within a single 30-day period.
 2. Inoperable or unlicensed vehicles and vehicle parts shall be stored inside a building.
- B. It shall be unlawful for the owner, tenant or lessee of any lot in any residential district to permit the open storage or parking outside of a building of semi-truck trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use in active, ongoing, daily construction activities being conducted on such lot, and except as provided below:
1. On a farm in the R-R District being used for active agriculture, the open storage or parking outside of a building of semi-truck tractors and/or semi-truck trailers is permitted. All such trailers must be roadworthy and

licensed, and actually used in connection with agricultural uses taking place on the farm.

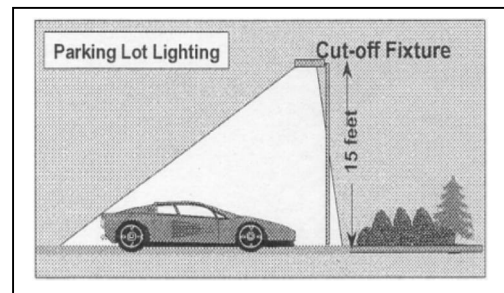
2. The owner of a semi-tractor and/or trailer rig may park not more than one tractor and not more than one trailer (including a set of tandem trailers intended to be towed together) on property which he or she occupies as their principal residence if: (1) the property is at least two acres in area; (2) the tractor or trailer are parked at least a distance equal to the minimum setbacks from any property line; and (3) the tractor and trailer are roadworthy and possess current licenses for use on public highways. Upon request, the occupant of the property shall submit proof of licensing and road-worthiness, proof that he or she is the owner or lessee of the tractor or trailer, and proof that he or she possesses the necessary current commercial driver's license or similar license to operate the tractor and trailer. **[Section 2.32.B amended 12/3/03]**

- C. In the R-R and R-2 Districts it shall be unlawful for the owner, tenant or lessee of any lot to permit the open storage or parking outside of a building of semi-truck tractors and/or semi-truck trailers for more than 20 days of any 30-day period. Such vehicles shall be parked so as to not block vision of drivers on or entering any adjacent street.
- D. In the R-1 District it shall be unlawful for the owner, tenant or lessee of any lot to permit the overnight open storage or parking outside of a building of semi-truck tractors and/or semi-truck trailers.

SECTION 2.33 EXTERIOR LIGHTING.

(2-16-99)

- A. All lighting of a high intensity nature, intended to illuminate broad areas, shall be directed away from, and if necessary shall be shielded to prevent the shedding of light onto adjacent properties or roadways.



- B. Light poles for parking lots in nonresidential districts or multiple family and nonresidential uses in residential districts shall be limited to 15 feet in height and shall be provided with light cut-off fixtures that direct light downward.
- C. Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally.

SECTION 2.34 USES NOT OTHERWISE INCLUDED IN DISTRICT.

A land use which is not cited by name as a permitted use in a zoning district may be permitted upon determination by the Planning Commission that such use is clearly similar in nature and

compatible with the listed uses permitted by right or with special land use approval in that district. In making this determination, the Planning Commission shall consider the following:

- A. No use shall be considered as similar to one permitted in a district if the use is specifically listed as a use permitted by right or as a special use in any other district.
- B. In determining compatibility, the Planning Commission shall compare the characteristics of the use in question with the characteristics of those that are expressly permitted in the district. The characteristics to be considered shall include traffic generation, types of service offered, types of goods produced, methods of operation, and building characteristics.
- C. If the Planning Commission determines that the proposed use is compatible with permitted and existing uses in the district, it shall decide whether the proposed use shall be permitted by right, (including as a permitted accessory use), or subject to a special land use approval.
- D. If the Planning Commission determines that the proposed use is similar in nature with a use expressly permitted by right, the proposed use shall be subject to site plan review, if required by ordinance, and to any specific site design standards for the similar listed use, unless the Planning Commission determines that certain conditions are not applicable based on the nature of the proposed use. If the Planning Commission determines that the proposed use qualifies for consideration as a special land use, the use shall be subject to the special land use review and approval process before it is permitted. The proposed use shall comply with the special site design standards applicable to the use to which it is determined to be similar, unless the Planning Commission determines that certain conditions are not applicable based on the nature of the proposed use.
- E. A request for a determination by the Planning Commission under this section shall be submitted in writing and contain a full description of the proposed use, including size, location, traffic generation, types of services offered, types of goods produced, methods of operation, and building characteristics, and other characteristics of the use. Application shall be accompanied by a fee determined by resolution of the Township Board from time to time. If the request for a determination of similarity is to be considered separately, not in conjunction with other land use approval for which notice is given, then notice that the Planning Commission will be considering the request for determination shall be given by first class mail to all owners of property within 300 feet of the property in question at least 72 hours prior to the meeting. If the request for determination of similarity is to be considered in conjunction with a request for land use approval for which public notice is otherwise given (such as site plan, special land use, or planned unit development approval), separate notice of the request for determination of similarity is not required. **[Section 2.34.A-E amended 12/3/03]**

SECTION 2.35 ARTIFICIAL BODIES OF WATER.

- A. **Application.** This section applies to artificially-created bodies of water, which are called “ponds” in this section. This section applies to ponds which are created by the impoundment of surface waters or by excavation. It also applies to any increase in the size of an existing natural or artificial body of water.
- B. **Exclusions.**
1. This section does not apply to swimming pools or landscape ponds in which the water is contained in a man-made liner, such as concrete or vinyl. (Provisions for swimming pools are made in Section 2.14 of this Ordinance.)
 2. This section shall not apply to drainage facilities approved by the Township as part of a development provided that such facilities are not intended or permitted to be used for any recreational activity whatsoever. This section shall not apply to artificial bodies of water on golf courses limited in purpose to providing a water hazard and irrigation water, which are approved as part of a site plan for the golf course.
- C. **Process of Approval.**
1. A pond with a surface area less than one-half of an acre may be approved by the Zoning Administrator by issuance of a zoning compliance permit upon compliance with this section and other applicable provisions of this Ordinance.
 2. A pond with a surface area of one-half acre or greater may be permitted only with special land use approval upon compliance with the standards in this section and the general standards applicable to all special land uses with regard to impact on environment, the surrounding lands, and the public welfare.
 3. Ponds may be approved in any zoning district in the Township.
 4. Plans and applications for ponds shall contain the information generally required for a zoning compliance permit or a special land use application, as the case may be. In addition, the application or plan shall include the pond size, location, distance from property lines, and depth, grade of the land above and below water level, location and grades of areas to which excavated soils will be removed, and any proposed fencing. In addition, the applicant shall identify the sources of water being used to supply the pond (such as a stream impoundment, surface water runoff, or springs); any augmentation well; any method of water discharge, filtration, or treatment of the water. In case of a pond of one-half acre or more, the applicant may be required by the Township to prepare and submit a hydrogeological study prepared by a qualified consultant indicating the feasibility of the proposed method of filling, and the impact on water table, existing wells, wetlands, lands, lakes, and streams with the potential

to be affected by the creation of the pond, including the impact of any augmentation well.

D. Standards for Ponds.

1. The property proposed for a pond shall have sufficient area so that after deducting the area of the pond, the property meets the minimum lot area requirements of the district of which it is located. In the case of a pond which is to be shared by more than one property, whether part of a site condominium, subdivision, by easement, or on some other basis, the area of the pond shall be excluded from the lot area of the lots which share the pond. If two or more lots share or have frontage on a pond, the provisions of this Ordinance regarding setbacks, identification of yards, and other provisions shall apply in the same manner as to a building lot located upon a natural body of water, including without limitation provisions related to riparian access in Section 2.27 of this Ordinance.
2. Unless the pond is encircled by a fence and gates meeting the same standards required for swimming pools by this Ordinance, the slopes or banks of the pond shall be constructed from the water's edge inward with a maximum slope of one foot of fall for each four feet of distance, until the pond reaches a depth of four feet.
3. At a minimum a pond shall maintain a setback of at least 50 feet from any adjacent property line. For a pond one-half acre or more in area being shared by more than one parcel, the property lines of those parcels may extend to or into the pond, (although land under water shall not be counted toward minimum lot area). For a pond one-half acre or more in area, the Township may also increase the minimum setbacks to achieve compliance with the standards for special land use approval.
4. The pond shall be constructed in accordance with applicable specifications of and with permits from, the Michigan Department of Environmental Quality, Kent County, and Courtland Township for its Storm Water Ordinance, and other applicable ordinances, laws and regulations.
5. No pond shall be used or maintained unless adequate measures are taken to insure that it will not cause the spread of disease, stagnation or otherwise create conditions dangerous or injurious to the public health.
6. No pond shall be wholly or partially emptied in any manner that would cause water to flow upon other property. Any discharge from a pond without a direct outlet to an established drain shall be of a design and diameter approved by the Township engineer. No pond shall be constructed and installed or maintained which either causes or contributes to the erosion of any adjacent or abutting nearby lands.

7. For ponds one-half acre in area or greater, the Township may regulate the activities and hours of use of the pond to achieve compliance with the standards for special land use approval.
8. There shall be a separation distance of at least 50 feet from the edge of the pond to any drain field area, but not less than the minimum separation distance required by the Sewage Disposal Regulations of Kent County. In the case of a pond one-half acre in area or more, the Township may impose additional requirements to insure the quality of the water is protected from sewage disposal facilities, including greater setbacks from the body of water, installation of community sewage disposal facilities, or provisions requiring connection to public sewer should it become available. This decision shall take into consideration the size of the pond, the number of properties which share use of it, lot sizes, soil conditions and similar factors, in order to protect the artificial body of water from pollution from sewage disposal systems in the same manner as would be desired for existing lakes or bodies of water.
9. After the pond is excavated, the property shall be restored by the placement of topsoil. Finished excavations shall be sloped to a gradient of not more than a 30 degree slope, and contoured to blend as nearly as possible with the natural surroundings. The finished grade shall not result in altering drainage patterns onto neighboring properties or substantial changes in grade at adjacent property lines.

E. Construction Schedule; Coordination with Provisions for Mineral Removal.

1. If a permanent artificial body of water will be created in conjunction with the removal and processing of mineral resources, then approval from the Township in accordance with the ordinance shall be required for both the artificial body of water and the mineral removal.
2. The Zoning Administrator or Township shall impose a construction schedule which shall include: (1) a specific deadline for completion after commencement which shall require that the excavation be performed with diligence and in a workmanlike manner; to discourage projects which are disruptive to the neighbors by being conducted in an episodic manner over a long period of time; (2) limits on times of excavation activities by hour of day and day of week as appropriate; (3) positive dust and erosion control measures, including prompt planting of groundcover on areas outside the pond which have been disturbed by the construction; (4) seasonal limitations on excavation to minimize erosion, dust, and sedimentation; (5) sequencing of the phases of excavation to minimize impacts to the construction on adjacent properties; (6) other conditions, restrictions and requirements for the construction process which will minimize the impact of the construction process on neighboring lands and the public. In addition, the Zoning Administrator may order the temporary

cessation of construction activities or additional protective measures because of weather conditions creating risk of erosion, excessive dust, or other conditions.

3. The Township may require financial security in compliance with Section 15.08 of this Ordinance to insure the timely and proper completion of construction, or restoration in the event of abandonment, in an amount determined to be sufficient to compensate the Township for rectifying non-compliance or abandonment. The amount of security may be decreased with Township consent as construction progresses. **[Section 2.35.A-E added 6/4/08]**

SECTION 2.36 WIND ENERGY SYSTEMS.

- A. **Purpose.** The purpose of this section is to establish standards and procedures by which the installation and operation of wind energy systems shall be regulated in order to promote the safe, effective, and efficient use of wind energy.
- B. **Definitions.** The following definitions apply to this section:
 1. **Ambient Sound Level.** The amount of background noise at a given location prior to the installation of a WES(s) which may include, but not be limited to, traffic, machinery, lawnmowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the dB (A) weighted scale as defined by the American National Standards Institute.
 2. **Applicant.** The person, firm, corporation, company, limited liability corporation or other entity which applies for Courtland Township approval under this section, as well as the applicant's successor(s), assign(s), and/or transferee(s) to any approved WES.
 3. **Building Mounted WES.** A WES mounted or attached to a building, as defined by this Ordinance.
 4. **Interconnected WES.** A WES which is electrically connected to the local electrical power utility system and can provide power to the local electrical power utility system.
 5. **Nacelle.** In a wind turbine, the component which houses generating components, gearbox, drive train, and other components.
 6. **Rotor Diameter.** The cross-sectional dimension of the circle swept by the rotating blades of a WES.
 7. **Shadow Flicker.** The moving shadow, created by the sun shining through the rotating blades of a WES. The amount of shadow flicker created by a WES is calculated by a computer model that takes into consideration

turbine location, elevation, tree cover, location of all structures, wind activity, and sunlight.

8. **Total WES Height.**

- a. **For a Tower Mounted WES.** The vertical distance measured from the ground at the base of a tower or pole mounted WES mounting system tower to the uppermost vertical extension of any blade or to the maximum height reached by any part of the WES.
- b. For those building mounted WES which require special land use approval according to E, for purposes of determining minimum setback, "Total WES Height" shall be the vertical distance measured from the average grade of the building, as defined by this Ordinance, to the uppermost vertical extension of any blade or to the maximum height reached by any part of the WES. (For purposes of determining whether a building mounted WES qualifies for staff approval, or must obtain special land use approval, the WES is measured from the roof of the building as described in D and E, and this definition is not used for that purpose.)

9. **Tower Mounted WES.** A WES mounted or attached to a tower, pole, or similar structure which is not a building.

10. **WES Setback.**

- a. For a tower mounted WES, the distance from the base of the structure or building upon which the WES is mounted to the nearest lot line, or other point from which a minimum setback is required.
- b. For a building mounted WES which is required to obtain special land use approval according to E, the distance from the center of the rotor to the nearest lot line, or other point from which a minimum setback is required.
- c. In the case of multiple parcels utilized for multiple or single WES, the setbacks shall be taken from the outside boundary of the parcels utilized for the WES project.

11. **Wind Energy System (WES).** "Wind energy system" means equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system.

C. **Standards for all Wind Energy Systems.** All wind energy systems shall comply with the following requirements:

1. **Sound Pressure Level.**

- a. Wind energy systems shall not exceed 55 dB (A), above ambient noise level as measured at any property line of the parcel containing the WES. This sound pressure level may be exceeded during short-term events such as severe wind storms. In the absence of such storm this sound pressure level shall not be exceeded for more than three continuous minutes in any hour of the day.
- b. Wind energy systems which are under single ownership or control and which involve more than one property shall be subject to the requirements of subsection 1.a above but the sound pressure level shall be measured at the property line closest to the WES at the outside boundary of all property used for the wind energy system. In addition, the applicant shall provide modeling and analysis that will demonstrate that the wind energy system will not exceed the maximum permitted sound pressure.
- c. The applicant must also provide estimated noise levels which the WES will produce at the property lines of the parcel proposed for the WES at the time of a special use or building and zoning compliance permit application.
- d. A noise emission study of the proposed site and impact upon all areas within 300 feet of the property containing the proposed WES location may be required for a WES which requires special land use approval (at the applicant's cost) and submitted to the Township as part of the application for special land use approval.

2. **Setbacks for WES.**

- a. **All Tower Mounted WES.** The minimum setback for all tower mounted WES from a property line, public right-of-way, public easement, or overhead utility lines shall be 1.2 times the height of the WES.
- b. **Building Mounted WES - Permitted with Staff Approval.** A building mounted WES which qualifies for staff approval under subsection D shall be a minimum distance of 15 feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof or other elevated surface of the building. The distance shall be measured from the furthest outward extension of all moving parts.
- c. **Building Mounted WES – Special Land Use Required.** The minimum setback for a building mounted WES which requires special land use approval from a property line, public right-of-way,

public easement, or overhead utility line shall be 1.2 times the height of the WES.

d. The minimum setback or distance requirement may be reduced under either or both of the following circumstances:

(i) If the applicant provides a registered engineer's certification that the WES is designed to collapse, fall, curl or bend within a distance less than the required setback of the WES.

(ii) If the Building Inspector determines that a lesser setback will not be detrimental to adjoining properties. In making this determination the Building Inspector shall, at a minimum, take into consideration the type and location of the building containing the WES, the type of WES proposed, the installation requirements of the WES and the location of buildings or uses on the adjacent properties.

3. **Location.** A tower mounted WES accessory to a principal use must be on the same lot as the principal use.

4. **Shared WES Usage.** A WES may provide electrical power to more than one dwelling unit or building, provided (1) the dwelling units or buildings are located on property or properties that abut the property or properties on which the WES is located; and (2) all applicable standards must be met as applied only to the property on which the WES is located. (This restriction is not applicable to interconnected WES generating power only for the electrical grid, not an identified property.)

5. **Rotor Clearance.**

a. Blade or rotor arcs created by a tower mounted WES shall have a minimum of 20 feet of clearance over and from any structure, adjoining property or tree.

b. The blade or rotor arcs created by a building mounted WES shall have a minimum clearance of eight feet above the roof or be designed in the determination of the Zoning Administrator so the blade or other moving parts do not present a safety hazard to any person on the roof.

6. **Shadow Flicker.** The Planning Commission or Zoning Administrator may request that the applicant perform an analysis of potential shadow flicker. The analysis shall identify locations of shadow flicker that may occur, and reasonable measures such as screening to eliminate or minimize the shadow flicker may be required.

7. **Construction Codes and Interconnection Standards.** A WES shall comply with the following:

- a. All applicable state construction and electrical codes of Courtland Township and building permit requirements.
- b. Federal Aviation Administration requirements.
- c. The Michigan Airport Zoning Act, Public Act 23 of 1950, as amended.
- d. The Michigan Tall Structures Act, Public Act 259 of 1959, as amended.
- e. The Michigan Public Service Commission and Federal Energy Regulatory Commission if the WES is an interconnected system.

8. Safety Requirements.

- a. Each WES shall be equipped with both a manual and automatic braking device capable of stopping the WES operation in high winds or must be designed so that the rotational speed of the rotor blade does not exceed the design limits of the rotor.
- b. To prevent unauthorized access, tower mounted WES must provide one or more of the following as required by the Planning Commission or the Zoning Administrator:
 - (i) Tower climbing apparatus shall not be located within 12 feet of the ground.
 - (ii) A locked anti-climb device shall be installed and maintained.
 - (iii) A tower capable of being climbed shall be enclosed by a locked, protective fence at least ten feet high with barbed wire fence.
- c. All WES shall have lightning protection.
- d. If a tower is supported by guy wires, the wires shall be clearly visible to height of at least eight feet above the guy wire anchors.

9. Signs.

- a. Each tower mounted WES shall have one sign not to exceed two square feet posted at the base of the tower, or, if the structure is fenced, on the fence. The sign shall include a warning about high voltage and emergency phone numbers.

b. A WES shall not include any advertising of any kind, except the nacelle may have lettering that exhibits the manufacturer's and/or owner's identification.

10. **Electromagnetic Interference.** WES shall be designed, constructed and operated so as not to cause radio and television interference.

11. **Maintenance.** All WES must be kept and maintained in good repair and condition at all times and shall not pose a potential safety hazard.

12. **Distribution Lines.** All distribution lines from the WES shall be located and maintained underground, both on the property where the WES will be located and off-site. This requirement may be waived if it is determined that to install, place, or maintain such distribution lines underground would be impractical or unreasonably expensive.

13. **Color.** A WES shall be painted a non-obtrusive light environmental color such as a beige or gray color that is non-reflective. No striping of color or advertisement shall be visible on the blades or tower.

14. **Lighting.** Artificial lighting shall not be installed on a WES, except to the minimum extent required by the Federal Aviation Administration or other applicable authority.

D. **Wind Energy Systems Permitted with Staff Approval.** Any (1) tower mounted WES with a total WES height no more than 60 feet; or (2) any building mounted WES for which the highest extension of the rotor or other part of the WES does not exceed 15 feet above the highest point (excluding chimneys) of the building to which it is attached shall be a permitted use in all zoning districts. The proposed installation shall be reviewed and approved by the Zoning Administrator and building official, subject to the requirements of subsection C above and the following:

1. **Permit Required.** A zoning compliance permit, and all applicable building, mechanical, and electrical permits shall be obtained from Courtland Township before installation. The following information is required upon application for a WES permit under this subsection D:

a. Name of property owner(s) and address.

b. An accurate drawing showing the proposed location of the WES, property lines, existing building(s), proposed WES setback, right-of-way lines, public easements, and overhead utility lines and the distance from the WES to principal buildings on adjacent lots.

c. The proposed type and height of the WES to be constructed; including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total

rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.

- d. If the applicant intends to install an interconnected WES the applicant may be requested to provide documentation that the applicable utility company has or will approve the proposed interconnection.
- e. Other relevant information as may be reasonably requested by the Zoning Administrator.

2. A zoning compliance permit shall be conditional upon compliance with all applicable state construction and electrical codes, Courtland Township building permit requirements, and all manufacturers' installation instructions.

E. **Wind Energy Systems Requiring Special Land Use Approval.** Any (1) tower mounted WES with a total WES height more than 60 feet; or (2) any building mounted WES for which the highest extension of the rotor or other part of the WES exceeds 15 feet in height above the highest point (excluding chimneys) of the building to which it is attached may be allowed only as a special use in all zoning districts. Approval is subject to the following regulations and requirements of this section and also the general special land use review procedures and standards of Chapter 12 of this Zoning Ordinance:

- 1. **Application Requirements.** In addition to the special land use application form an applicant for a WES required to obtain special land use approval shall provide the following information as part of the application:
 - a. The proposed type and height of the WES to be constructed; including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.
 - b. If the applicant intends to install an interconnected WES the applicant may be required to provide documentation that the applicable utility company has or will approve the proposed interconnection.
- 2. **Site Plan Requirements.** A site plan for a WES for which a special use is required shall include the following items with or on the site plan:
 - a. All requirements for a site plan contained in Chapter 11 herein.
 - b. Dimensions of the area purchased or leased which is to contain the WES.

- c. Location and height of all existing and proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and any other above-ground structures proposed or existing for the parcel or parcels containing the WES.
 - d. Specific distances from the WES structures to all other buildings, structures, and above ground utilities which are on the parcel or parcels upon which the WES is proposed to be located and on abutting parcels.
 - e. Land uses within 300 feet of the parcel.
 - f. Access drives to the WES including dimensions and composition, with a narrative describing proposed maintenance of the drives.
 - g. All lighting proposed for the site, including diagrams of lighting fixtures proposed if requested by the Planning Commission.
 - h. Security measures proposed to prevent unauthorized trespass and access.
 - i. Standard drawings of the structural components of the WES, including structures, towers, bases, and footings. A registered engineer shall certify drawings and any necessary calculations that show that the system complies with all applicable local, state, and federal building, structural and electrical codes.
 - j. Additional information as required by Chapter 12, Special Land Uses, of this Ordinance or as may be required by the Planning Commission.
 - k. The Planning Commission may waive or modify the above requirements at the request of the applicant if it is determined that those items would not be needed to properly review the project.
3. A WES, except for building mounted WES, may be located on a lawful parcel or parcels which do not have frontage on a public or private road if there is provided means of safe access for emergency vehicles.
 4. **Maintenance Program Required.** The applicant shall provide a written description of the maintenance program to be used to maintain the WES, including a maintenance schedule of types of maintenance tasks to be performed.
 5. **Decommissioning Plan Required.** The applicant shall provide a written description of the anticipated life of the system and facility; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and restoration of the site; and removal and restoration procedures and schedules that will be employed if the WES become obsolete or abandoned.

6. **Siting Standards and Visual Impact.**
 - a. A WES shall be designed and placed in such a manner to minimize adverse visual, shadow flicker, and noise impacts on neighboring areas.
 - b. A WES project with more than one WES structure or tower shall utilize similar design, size, color, operation, and appearance throughout the project as is practicable.
7. **Inspection.** Courtland Township shall have the right upon approving any WES to inspect the premises on which the WES is located at all reasonable times with prior notice to the property owner (except in case of emergency) in order to insure compliance with Township Ordinance and any conditions of approval. Courtland Township may hire a consultant to assist with any such inspections at the applicant’s cost.
8. **Performance Guarantee.** If a special use is approved pursuant to this section, the Planning Commission may require a security in the form of a cash deposit, surety bond, or irrevocable letter of credit in a form, amount, time duration and with a financial institution deemed acceptable to the Township, which will be furnished by the applicant to Courtland Township in order to ensure full compliance with this section and any conditions of approval.
9. **Issuance of Permit.** A special use permit shall be conditioned upon compliance with all applicable construction and electrical codes, Courtland Township building permit requirements, and all manufacturers’ installation instructions. **[Section 2.36.A-D added 5/5/10]**

**SECTION 2.37 SPECIFIC STANDARDS FOR MEDICAL MARIHUANA
ENTERPRISE.**

A. Purpose and Findings; Definitions.

1. **Findings.** It is not the intent of this Ordinance to prohibit any use or activity allowed by the Michigan Medical Marihuana Act (the “Medical Marihuana Act”), Initiated Law 1 of 2008, MCL 333.26421, et seq., but to enact regulations which address the land use effects of places used by primary caregivers for the cultivation, processing, sale, or distribution of medical marihuana. The regulations in this Ordinance are intended to ensure that such places are not covertly used for unlawful purposes not authorized by the Medical Marihuana Act, and to ensure that these places do not create or cause adverse effects that might contribute to the blighting or downgrading of the surrounding area. The Township finds that these operations are commercial in character, and should be directed toward areas which are zoned for commercial types of uses. This Ordinance regulates the locations at which caregivers may operate, and is not intended to apply to a qualifying patient under the Medical Marihuana

Act, unless a patient is acting also as a primary caregiver. This Ordinance is also not intended to apply to a primary caregiver who possesses or cultivates marihuana solely for the purpose of assisting not more than one qualifying patient who makes their permanent residence in the same single family dwelling as the primary caregiver.

2. **Definitions.** For the purposes of this section, the words and phrases as contained herein shall have the same meanings as set forth in the Medical Marihuana Act and the regulations promulgated thereunder by the State of Michigan Department of Community Health.
3. **Marihuana Facility.** A marihuana facility as defined and regulated by Public Act 281 of 2016 does not constitute a medical marihuana enterprise, and shall not be permitted as such an enterprise. **[Section 2.37.A.3 added 10/4/17]**

B. **Application; Information Submission.** Any person proposing to establish a medical marihuana enterprise shall apply or and obtain a zoning compliance permit, in addition to any site plan approval or building permit application, as applicable. In addition to the information and any documents required for site plan approval, a person seeking to establish a medical marihuana enterprise shall also submit the following:

1. A floor plan of the premises showing the following:
 - a. The location of any service counter, demonstrating that there is an unobstructed view of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.
 - b. Location of all overhead lighting fixtures, along with demonstration that sufficient minimum interior illumination will be provided.
 - c. Identification of any portion of the premises to which patrons will not be permitted.
 - d. Identification of the use of each room or other area of the premises.
 - e. Identification of the area(s), if any, that will be used for the cultivation of marihuana, and the total floor area that will be used for this purpose. For each caregiver associated with the medical marihuana enterprise, five separate enclosures meeting the requirements of subsections C.5 and D.5.b shall be provided.
 - f. An outdoor lighting plan, along with demonstration that sufficient exterior illumination will be provided.
 - g. Proof that each of the maximum of two caregivers operating at the medical marihuana enterprise has been issued a registry identification card to serve as a registered primary caregiver. Any

information submitted regarding qualified patients shall be obscured or deleted from any record retained by the Township.

- h. A description, including number, power requirements, types of chemicals, water use and disposal methods for watering, and all other details regarding the plumbing, mechanical, electrical and structural facilities, if any, which will be installed for the purpose of cultivating marihuana on the premises.
- i. Information treated as confidential under the Michigan Marihuana Act, including the associated primary caregiver, registry identification card, and any information about qualifying patients associated with that primary caregiver which is received by the Township shall be maintained separate from the public information submitted in support of the application, shall be kept confidential, and shall not be subject to disclosure under the Freedom of Information Act. The public record for review shall indicate only that proof of the registration has been submitted.

C. **Standards for Approval.** Any building, structure or lands proposed to be used for a medical marihuana enterprise shall comply with the following provisions:

- 1. **Location.** A medical marihuana enterprise shall be located only on a lot in a LC - Light Commercial District, C - General Commercial District or LI - Light Industrial District, with frontage on Wolverine Boulevard/Northland Drive or M-57/14 Mile Road. The property shall have frontage on those roads for a distance equal to the minimum required frontage in the zoning district, and shall have their primary means of access to those roads.
- 2. **Spacing.** A medical marihuana enterprise shall not be located or operated:
 - a. Within 500 feet of another medical marihuana enterprise.
 - b. Within 500 feet of a church, synagogue, mosque or other place of religious worship, or a park, playground, library or licensed daycare facility.
 - c. Within 1,000 feet of any school, to ensure community compliance with the federal “Drug-Free School Zone” requirements.
 - d. Within 150 feet of any dwelling measured from the nearest points of the two buildings.

For a, b and c above, measurement of distances shall be made by extending a straight line from the property line of the medical marihuana enterprise to the nearest property line occupied by such other use.

3. **Limitation on Number of Caregivers and Plants.** Not more than two primary caregivers shall engage in activities permitted under the Medical Marihuana Act at a medical marihuana enterprise.
4. **Building Permits.** All necessary building, electrical, plumbing, mechanical and/or other permits shall be obtained, including as necessary for any equipment, wiring, lighting or watering devices that support the cultivation, growing or harvesting of marihuana.
5. **Marihuana Plants and Storage. [Subsection 2.37.C.5 amended 10/4/17]**
 - a. Marihuana plants shall be kept in an enclosed, locked area consisting of a closet, room or other comparable, stationery and fully enclosed area equipped with secured locks or other functioning security devices that permit access only by the registered primary caregiver associated with that area. Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed from ground level or from a permanent structure, and they are grown within a stationery structure that is enclosed on all sides, except for the base, by chain link fencing, wooden slats, or similar material that prevents access by the general public and that is anchored, attached or fixed to the ground and equipped with functioning locks or other security devices that restrict access only to the registered caregiver with whom that area is associated.
 - b. Marihuana, usable marihuana, and marihuana infused products shall be kept in an enclosed, locked area consisting of a closet, room, or fully enclosed and roofed area located within the principal building, and equipped with locks or other security devices that permit access only by the primary caregiver with whom that area is associated.
 - c. A separate enclosure for marihuana, marihuana plants, usable marihuana, and marihuana infused products shall be provided for each patient with whom that caregiver is associated. Marihuana, usable marihuana, and marihuana infused products, not including marihuana plants, shall be located within the primary building on the property. If located in a room with windows, shielding materials shall be employed, without alteration of the exterior of the building, to prevent the escape of light, or the observation of the exterior from the exterior of the building.
6. **Fire and Hazardous Material Storage.** Any portion of the building where energy usage and heat exceeds typical residential or light commercial use, such as a grow room, and areas for storage of any

chemicals, such as herbicides, pesticides and fertilizers shall be subject to prior approval by the Fire Department and Building Inspector to ensure compliance with applicable standards, and inspection thereafter to ensure continued compliance.

7. **Equipment.** No equipment or process shall be used in growing, processing or handling marihuana which creates noise, vibration, glare, light, fumes, odors or electrical interference detectable to the normal senses outside the building. No equipment or process shall be used which creates visual or audible interference with any radio, television or similar receiver of the premises or which causes fluctuation of electrical line voltage off the premises.

D. Operational Requirements.

1. Age Requirement Regulations.

- a. No persons under the age of 18 shall be permitted in a medical marihuana enterprise at any time, unless the person is a registered qualifying patient and is accompanied by a parent or legal guardian.
- b. It shall be the duty of the primary caregiver of each medical marihuana enterprise to ensure that an attendant is stationed at each public entrance to the business at all times during the business's regular business hours and to post notice at the entrance to the premises stating no person under 18 years of age is permitted on the premises, except as provided in subsection D.1.a above. It shall be the duty of the attendant to not allow any person under the age of 18 years to enter the medical marihuana enterprise, except as allowed by this section.

2. **Hours of Operation.** Hours of operation of a medical marihuana enterprise shall be not longer than 8:00 a.m. to 8:00 p.m.

3. **Inspection.** An applicant or owner shall permit all representatives of the Township, Kent County and the State of Michigan to inspect the premises of the medical marihuana enterprise for the purpose of determining compliance with this Ordinance and other applicable laws. Access shall be granted at any time during regular business hours and at other times upon reasonable notice.

4. **Exterior Requirements.** The merchandise or activities of the medical marihuana enterprise shall not be visible from any point outside the business.

5. **Interior Structural Requirements.**

- a. The interior of the premises shall be configured in such a manner that there is an unobstructed view of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.
 - b. Each separate enclosure provided for each patient with whom a caregiver is associated shall have an area not greater than reasonably necessary to support the cultivation of not more than 12 individual marihuana plants, and shall be located in a separate locked area that is not accessible to the general public. The separate enclosure shall have solid walls extending from the floor to a solid fixed ceiling.
 - c. The interior premises shall be equipped with 24-hour electronic, video surveillance equipment, sufficient in nature and scope to deter and detect unlawful theft of marihuana from the premises. Surveillance shall be actively monitored or archived and safeguarded for a sufficient time and manner so that it may be reviewed in the event of an incident.
6. **Standards of Conduct.** The following standards of conduct shall be adhered to on the premises of the medical marihuana enterprise by all employees, managers, officers and agents of any medical marihuana enterprise:
- a. Marihuana shall not be consumed on the premises by the primary caregiver, qualifying patient, or any other person.
 - b. The possession, use, or sale of alcohol or controlled substances shall not be permitted on the premises.
 - c. An owner, manager, or an employee shall not illegally offer for sale or illegally allow to be consumed or possessed upon the premises, or upon any parking areas, sidewalks, walkways, access ways or grounds of the premises, narcotics or dangerous drugs or fermented malt, malt, vinous or spirituous beverages.
 - d. A registered primary caregiver associated with the property shall be on duty at all times that the business is open to the public.
 - e. All doors to public areas on the premises shall remain unlocked during business hours.
 - f. All activity of the medical marihuana enterprise, including but not limited to the cultivation, dispensing and sale of medical marihuana, shall be performed indoors. Provided, however, medical marihuana may be grown outdoors in compliance with the requirements of the Michigan Medical Marihuana Act. **[Subsection 2.37.D.6.f amended 10/4/17]**

- g. The sale of items used in the administration of marihuana shall not be permitted on the premises, except to qualifying patients associated with the primary caregiver.
- h. A medical marihuana enterprise shall be operated in compliance with the applicable rules promulgated by the Michigan Department of Community Health or other state agency.

7. **Other Regulations, Permits or Licenses.** The provisions of this section do not waive or modify any other provision of this Ordinance, any other ordinance of the Township, or any county, state or federal law or regulation.

E. **Proof of Continued Registration; Revocation of Permit.**

- 1. Not less than annually after approval of the zoning compliance permit, the operator shall provide proof to the Township of renewal of the registered identification card for each primary caregiver associated with the premises.
- 2. If a different primary caregiver becomes associated with the medical marihuana enterprise, that primary caregiver shall, before transfer of responsibility, produce proof of registration to the Township. The confidentiality of that proof of registration shall be maintained in the manner provided for information submitted in connection with an original application.
- 3. A zoning compliance permit shall be revoked following notice and hearing if the caregiver associated with the medical marihuana enterprise ceases to be registered, is convicted of illegally possessing, selling or providing marihuana or other controlled substance, or for violation of the operational or other requirements of the Zoning Ordinance or conditions of approval.

F. **No Prior Nonconforming Use.** Prior to adoption of the ordinance which provided for medical marihuana enterprises, such uses were not lawful within the Township. Accordingly, no medical marihuana enterprise or similar use shall be treated as a lawful nonconforming use.

G. **Not Home Occupation.** A medical marihuana enterprise shall not be allowed or established as a home occupation, and shall not be considered as a use similar to a home occupation, or any other use permitted by right or special land use in this Ordinance for purposes of Section 2.34.

H. **No Immunity from Prosecution.** No provision of this Ordinance is intended to grant, nor shall any such provision be construed as granting, immunity from prosecution for the cultivation, sale, consumption, use, distribution or possession of marihuana which is not in compliance with the Medical Marihuana Act, or the applicable rules of the Michigan Department of Community Health. Inasmuch as federal law is not affected by the Medical Marihuana Act or this Ordinance, no

provisions or ordinance is intended to grant, nor shall any such provisions be construed as granting, immunity from prosecution under the laws of the United States. The Medical Marihuana Act and this Ordinance does not protect qualifying patients, primary caregivers, or others from federal prosecution or from seizure of their property by federal authorities under the Federal Controlled Substances Act, in cases in which such statute may apply.

- I. **Savings Clause/Severability.** Should any provision of this section be declared, by a court of competent jurisdiction, to be preempted by the Medical Marihuana Act or to be otherwise invalid or unenforceable under state, county or federal law, such declaration shall not affect the validity of any other provision of this section, which shall remain fully enforceable. **[Section 2.37.A-I added 7/6/11]**

SECTION 2.38 FARM BUILDINGS.

Farm buildings are permitted on farms subject to the following:

- A. A farm building is permitted only on lands which are being used as a farm as defined by this Ordinance.
- B. A farm building may be constructed and used without regard to the presence of a principal building on the lot.
- C. The farm building shall comply with the provisions of this chapter pertaining to accessory buildings.
- D. Construction or enlargement of a farm building is permitted only upon issuance of a zoning permit by the Zoning Administrator. The applicant for a zoning permit for a farm building shall provide written proof that the farm on which the building is to be located is being used for the commercial production of farm products intended to be marketed and sold at a profit, resulting in gross income from farming operations on that property of at least \$3,500 per year. The Zoning Administrator may accept equivalent written proof that the property will be put to bona fide use for commercial production of farm products.
- E. A farm market or roadside stand shall be subject to site plan review for compliance with all applicable yard, parking, access and other requirements. No farm market or roadside stand shall be constructed until a building permit has been issued therefor, unless exempt according to the Stille Derossett-Hale Construction Code Act.
- F. A proposed building which does not meet the qualifications of a “farm building” may be constructed as an accessory building in compliance with the provisions made for such buildings, if there is a principal building located on the parcel, and in compliance with all provisions made for accessory buildings. **[Section 2.38.A-F added 2/1/12]**

SECTION 2.39 PROHIBITION OF MARIHUANA FACILITIES.

- A. Public Act 281 of 2016 (“Act 281”) legalized and provided for state licensing of certain defined marihuana facilities, including growers, processors, provisioning centers, safety compliance facilities and secure transporters (“marihuana facilities”). Section 205 of Act 281 provides that a “marihuana facility shall not operate in a municipality unless a municipality has adopted an ordinance that authorizes that type of facility.” The Township of Courtland has determined that marihuana facilities should not be permitted in the Township for policy reasons including public safety, law enforcement concerns, and the amount of commercial and industrial land available. The purpose of this Section 2.39 is to specifically provide that no land use specified in the zoning ordinance shall be construed to include a marihuana facility.
- B. A marihuana facility as defined in Act 281 shall not be permitted within the Township. Such facilities shall not be construed to fall within the definition of any land use permitted by right of special land use approval in the Township, including but not limited to a farm, roadside stand, farm building, other agricultural use, home occupation, accessory use, commercial greenhouse or nursery (whether operated on a wholesale or retail basis) removal of natural resources, medical, executive, business, professional or office of any kind, clinic of any kind, personal service establishment, retail store or use, outdoor sale, laboratory, open air business, commercial storage warehouse, truck and transportation business, research and development facility, wholesale establishment, facility for the manufacture, compounding, processing, packaging, warehousing, or treatment of food stuffs or pharmaceuticals, or commercial storage warehouse facility.
- C. In addition to the above, a marihuana facility as defined and licensed by Act 281 does not constitute a medical marihuana enterprise, as defined by this Ordinance. Medical marihuana enterprises as defined by this Ordinance provide for the conduct of operations of caregivers, as defined and regulated by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008.
- D. A marihuana facility shall not be permitted under Section 2.34 of this Ordinance “Uses Not Otherwise Included In District,” or replacement provision of like import.
- E. The Zoning Board of Appeals shall not have jurisdiction to consider a use variance to allow a marihuana facility. **[Section 2.39 added 10/4/17]**