

THE ZONING ORDINANCE OF THE TOWNSHIP OF MONTAGUE

An ordinance to establish zoning districts and thereby to regulate and promote the health, safety, and general welfare of the people of the Township of Montague; to control the location and use of structures, buildings, and land, including the permitted and conditional uses of same, the height and size of buildings, the dimensions of yards and other open spaces, the use, size, and type of signs, parking and loading requirements, and the density of population; to encourage the use of lands in accordance with their character and adaptability; to limit the improper use of land; to conserve natural resources and energy; to meet the needs of the State's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to insure that uses of land shall be situated in appropriate locations and relationships; to avoid overcrowding of population; to provide adequate light and air; to lessen congestion on public streets; to reduce hazards to life and property; to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; to conserve the expenditure of funds for public improvements and services; to conform with the most advantageous uses of land, resources, and properties; to provide for completion, enforcement, and amendment of this Ordinance; to provide for the completion, extension, substitution, or elimination of non-conforming uses; to provide for a Zoning Board of Appeals and to define the powers and duties thereof; to designate and define the powers and duties of the officials in charge of the administration and enforcement of this Ordinance; to provide for the payment of fees for all types of zoning permits and zoning actions; to provide penalties for the violation of this Ordinance; and to repeal the previous Township Zoning Ordinance of Montague. This Ordinance is enacted under the authority of Act 184 of the Public Acts of 1943, as amended.

The Township of Montague, located within the County of Muskegon, State of Michigan ordains:

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ARTICLE 1

TITLE, PURPOSES, AND LEGAL CLAUSES

1.01 SHORT TITLE

This Ordinance shall be known and may be cited as: "The Montague Township Zoning Ordinance", and is sometimes cited herein as the "Ordinance".

1.02 REPEAL AND SAVINGS CLAUSE

Effective on the Effective Date of this Ordinance, all previous Montague Township Zoning ordinances, including the most recent ordinance dated April 26, 1988, and including amendments and additions thereto, are repealed. The repeal of said ordinances shall not release any penalty or liability incurred under said ordinances, and such ordinances shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action for the enforcement of such penalty or liability.

1.03 ZONING ORDINANCE AS LAND USE PLAN

The provisions of this Ordinance constitute, and have been designed in order to implement, a component of the updated Land Use Plan for Montague Township. This Ordinance has been designed and adopted after giving reasonable consideration to, among other things, the character of each zoning district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development, and the existing Montague Township Land Use Plan.

1.04 ZONING MAP

The Zoning Map is deemed a part of this Zoning Ordinance.

1.05 VALIDITY AND SEVERALTY CLAUSE

If a court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provision of this Ordinance not specifically included in said ruling.

If a court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular lot, district, use, structure or building, such ruling shall not affect the application of said provision to any other lot, district, use, structure or building not specifically included in said ruling.

1.06 CONFLICT BETWEEN PROVISIONS OF THIS ORDINANCE, WITH OTHER LAWS OR ORDINANCES, OR WITH OTHER PRIVATE RESTRICTIONS OR COVENANTS

1. Where any condition imposed by any provision of this Ordinance upon the use of any lot, use, structure or building is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this or another ordinance, or adopted under any other law, then in such case the provision which is more restrictive or which imposes a higher standard or requirement shall govern.

2. This Ordinance is not intended to abrogate any easement, subdivision restriction, or other private covenant or agreement; provided that where any provision of this Ordinance is more restrictive or imposes a higher standard or requirement than such easement, subdivision restriction, or other private covenant or agreement, then the provisions of this Ordinance shall govern.

1.07 PERIOD OF EFFECTIVENESS

This Ordinance, and any amendments hereto made hereafter, shall remain in full force and effect henceforth, unless and to the extent repealed.

1.08 EFFECTIVE DATE: PUBLICATION

This Ordinance shall take effect upon publication of a notice that such Ordinance has been adopted, pursuant to Section 11a of Act 184 of 1943, as amended.

Made, passed, and adopted by the Township Board of the Township of Montague, this 9th day of April, 2002.

ARTICLE 2

DEFINITIONS

2.01 GENERAL

When not inconsistent with the context, words used in the present tense include the future tense, words used in the singular number include the plural number and words used in the plural number include the singular. The word “shall” is always mandatory and not merely discretionary. Terms not herein defined shall have the meanings customarily assigned to them.

2.02 SPECIFIC TERMS

The following terms shall have the following meanings when used in this Ordinance. Other supplementary definitions are set forth in subsequent articles of this Ordinance.

ABANDON: Cease to use or occupy a structure, building or land for its allowed use or previously allowed use for a period specified in this Ordinance.

AUTOMOTIVE AND FARM EQUIPMENT REPAIR: The general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles and farm equipment; collision service such as body, frame or fender straightening and repair; or painting and undercoating of motor vehicles and farm equipment.

ACCESSORY BUILDING: A building subordinate to and on the same lot as a main (principal use) building and occupied by or devoted exclusively to an accessory use, including, but not limited to, a private garage. An accessory building attached to a main building shall be considered a part of the main (principal use) building.

ACCESSORY USE: A use of a building or structure, lot or portion thereof, whether temporary or permanent, which is customarily incidental and subordinate to the principal use of the main building, structure, or lot. The terms “accessory” and “accessory use” have the same meaning.

AGRICULTURAL: Includes purposes related to agriculture, farming, dairying, pasturage, horticulture, vitaculture, and animal and poultry husbandry. The terms “agriculture”, “agricultural”, and “farming” are used interchangeably in this Zoning Ordinance.

ALTERATION: Any change, addition, or modification in construction, and any change in the structural components of a building, such as walls, partitions, columns, beams, or girders, the consummated act of which may be referred to herein as “altered”, “modified”, or “reconstructed”.

AREA: See LOT AREA; also see FLOOR AREA

BASEMENT: That portion of a building which is below the first story, the ceiling of which is less than five (5) feet above the surrounding ground elevation.

BED AND BREAKFAST: A single family dwelling occupied by the owner or permanent tenant in which overnight lodging and breakfast are made available to transient guests for a fee. Individual guestrooms shall not contain kitchen (cooking) facilities and may or may not contain private bathrooms. Guest stays are short-term in duration. "Bed and Breakfast" shall not mean "hotel" or "motel".

BILLBOARD: Any construction or portion thereof upon which a sign or advertisement used as an outdoor display for the purpose of making anything known to the general public is affixed. This definition does not include any bulletin boards used to display official court or public office notices.

BUILDING: A structure, either temporary or permanent, erected on a lot; a mobile home or mobile structure; a pre-manufactured, modular, or pre-cut structure; above or below ground; a structure designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

BUILDING HEIGHT: The vertical distance measured from the established exterior grade to the highest point of the roof surface for flat roofs; and to the highest point of the ridge of the roof for any mansard, gable, hip and gambrel roof. Where a building is set back from the street line, the height of the building may be measured from the average elevation of the finished grade along the front of the building. Chimneys, weathervanes, and decorative cupulas not intended for occupancy shall not be included in the building height.

BUILDING PERMIT: A permit for commencing construction issued in accordance with a plan of construction that complies with all the provisions of this Zoning Ordinance and all other relevant ordinances and laws.

CHURCH: A building wherein as the principal use people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain worship.

CONDITIONAL USE: A use specified in this Ordinance which requires a conditional use permit, issued pursuant to Article 4, and which is not a nonconforming use allowed pursuant to Article 5. The term "conditional use" shall be deemed the equivalent of a "special land use" as authorized by MSA 5.2963(16)(b), MCL 125.286(b).

DWELLING, DUPLEX: A building containing two (2) dwelling units designed for residential use and which shall conform in all other respects to the standards applicable to single family dwellings.

DWELLING, SINGLE FAMILY: A building comprising one (1) dwelling unit designed for residential use, and which shall comply with the following standards:

1. It complies with the minimum floor area requirements of this Ordinance for the zoning district in which it is located. Also see subparagraph 9 below.

2. It has a minimum width across any front, side or rear elevation of twenty (20) feet and complies in all respects with the Township construction codes, including minimum heights for habitable rooms. Also see subparagraph 9 below.

3. It is firmly attached to a permanent foundation constructed on the lot in accordance with the Township construction codes and shall have a foundation wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable construction codes for single family dwellings. Additionally, in the event that the dwelling is a manufactured or mobile home, such dwelling shall be installed pursuant to the manufacturer's set up instructions and at minimum shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter foundation wall as required above. Also see subparagraph 9 below.

4. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis. Also see subparagraph 9 below.

5. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the Muskegon County Health Department.

6. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten percent (10%) of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.

7. The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

8. The dwelling complies with all pertinent construction and fire codes, and shall meet or exceed all applicable roof snow load and strength requirements. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development.

9. Subparagraphs 1, 2, 3, and 4 shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or regulation. Subparagraphs 2 and 4 shall not apply to a mobile home located in "MH" Mobile Home zoning district but not located within a licensed mobile home park.

10. All construction required herein shall be commenced only after a building permit and a zoning permit has been issued in accordance with the applicable township construction codes and this Ordinance.

DWELLING, MULTIPLE-FAMILY: A building containing three (3) or more dwelling units designed for residential use and which shall conform in all other respects to the standards applicable to single family dwellings.

ESSENTIAL SERVICES; ESSENTIAL SERVICES BUILDINGS: The erection, construction, alteration or maintenance by public utilities, county, or township departments or commissions of underground or overhead gas, electrical, steam or water transmissions or distribution systems, collections, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, telephone exchange and/or repeater buildings, electric substations and substation buildings, gas regulator stations and regulator buildings and other similar buildings, structures, equipment and accessories in connection therewith (but not including any buildings except those expressly referred to herein) reasonably necessary for the furnishing of adequate service by such public utilities, county, or township departments or commissions for the public health or safety or general welfare. Excluded are wireless telecommunication and cable t.v. towers and antennas.

FLOOR AREA: The sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) dwellings or buildings. Floor area shall include elevator shafts and stairwells at each floor, floor space used for mechanical equipment, (except equipment, open or closed located on the roof), penthouses, habitable attic space having headroom of seven (7) feet, six (6) inches or more, interior balconies and mezzanines. Any space devoted to off-street parking or loading, garages, porches, patios, decks, or breezeways shall not be included in "floor area".

GARAGE, COMMERCIAL: Any garage, other than a private garage, available to the public, operated for gain, and used for storage, repair, rental, washing, sales, or servicing of automobiles or other motor vehicles or farm equipment, including automotive and farm equipment repair.

GARAGE, PRIVATE: A garage which is accessory to the principal dwelling use and which is not used pursuant to any commercial venture or enterprise.

HOME OCCUPATION: Occupation(s) engaged in entirely within a dwelling or approved accessory building by the resident or residents of the same.

HOUSE TRAILER, MOBILE HOME, CAMPER TRAILER, OR MOTORHOME: These terms may be used interchangeably and include any vehicle, whether self-propelled or not, used or adapted to be used or so constructed as to permit its being used as a conveyance upon the public streets or highways and for occupancy as a dwelling or sleeping place for one (1) or more persons, office or other business use. It shall make no difference whether or not the same has a foundation thereunder, if said foundation is designed to permit the removal of same and its readaption to use upon the public streets or highways.

HOUSE TRAILER PARK OR MOBILE HOME PARK: Any lot upon which three (3) or more occupied house trailers, mobile homes, or motor homes are located, regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment or facility used, or intended for accessory or incidental use.

HOUSE TRAILER OR MOBILE HOME OR MOTOR HOME SITE OR SPACE: A portion of the park set aside and clearly marked and designated for occupancy and accommodation of an individual house trailer, mobile home or motor home.

JUNKYARD: Any land or building used for commercial or non-commercial storage, salvaging, recycling and/or sale of paper, tires, cans, bottles, machinery, rags, used or salvaged building materials, scrap metals, salvaged material, machinery, vehicle parts, or other scrap or discharged materials; or for the dismantling, storage, or salvaging of automobiles or other vehicles or equipment not in running condition, or of machinery or parts thereof but not including a dump or solid waste disposal site.

LIVING AREA; LIVING SPACE: That area within a structure or building intended, designed, erected or used for human occupancy; that is, the sum of the gross horizontal area of the floor in question of the building used for occupancy, measured from the exterior faces of the exterior walls, from the center line of interior walls, but excluding breezeways, porches, patios, decks, or garages.

LOT: Any parcel or tract of land of any size, regardless of whether or not it is occupied or to be occupied by a structure or a building and its accessory buildings, or by a dwelling group and their accessory buildings, together with such open spaces as are required under the provisions of this Ordinance for a lot in the zoning district in which such lot is situated. As used herein, the term "lot" is not limited to recorded or unrecorded subdivisions. The term "lot" shall include a "unit" (or its equivalent) contained within a so-called "site condominium" or planned unit development (PUD).

LOT AREA: The total horizontal area included within lot lines. Lot area shall not include that part of the lot within the street right-of-way.

LOT, CORNER: A lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street, any two (2) cords of which form an angle of 135 degrees or less as measured on the lot side. The point of intersection of the street lot lines is the "corner". In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above.

LOT DEPTH: The mean horizontal distance from the front street line to the rear lot line. The street right-of-way shall not be included in determining lot depth or lot width.

LOT, INTERIOR: A lot other than a corner lot.

LOT, FRONT LINE: That side of the lot abutting upon a public or private street right-of-way or abutting upon a lake; in the case of a corner lot, either street right-of-way line may be considered the front line of the lot if it contains the minimum required frontage.

LOT, REAR LINE: Ordinarily that lot line which is opposite and most distant from the front lot line as herein before defined. In the case of an irregular-shaped lot, a line 10 or more feet in length entirely within the lot and parallel to and at the maximum distance from the front lot line shall be considered the rear lot line for the purpose of determining required area yard spacing.

LOT, SIDE LINE: Any lot line not qualifying as a front or rear lot line.

LOT WIDTH: The mean horizontal distance between the side lines as measured at right angles to such side lot lines. Where side lot lines are not parallel, the lot width shall be the average horizontal distance between such side lot lines.

NON-CONFORMING USES OR BUILDINGS: A lot, structure or building or the use thereof, lawfully existing at the time this Ordinance became effective but which no longer conforms with the present use regulations of the zoning district in which it is located. Nonconforming uses or structures or buildings not lawfully existing upon the effective date of this Ordinance are prohibited and may be prosecuted as provided in this Ordinance.

OFFICE: A room, suite of rooms, or building in which are located desks, chairs, tables, couches, bookcases, and/or equipment (accounting, filing, recording, communication and/or stenographic) for current use in the office business, and personnel engaged in executive, administrative, professional, political, informative, research and/or clerical duties; and other similar, related or incidental furniture, equipment or personnel connected or concerned with the performance of a personal service which causes or creates no external disturbance, nuisance, or annoyance beyond the confines of said rooms or building.

PLANNED UNIT DEVELOPMENT: A development of a lot that is under unified control and is designed and developed as a whole in a single development operation or a series of development stages. The development may include streets, utilities, buildings, open space, and other site features and improvements. Any development which contains multiple similar or dissimilar principal uses is a planned unit development. Planned unit developments may be characterized by various uses, some of which do and some of which do not comply with all of the conditions and limitations pertinent to the zoning district in which the planned unit development is located, but which still comply with the spirit of this Ordinance and which, with the approval of the Township Board as a conditional use, may be allowed.

PRINCIPAL USE: The main use to which the premises are devoted and the main purpose for which the premises exist. A dwelling includes its attached or detached (but not both) garage as part of the principal use, provided that the principal use in its entirety must comply with all applicable provisions with respect to such principal use, including but not limited to height and setback requirements.

RECREATIONAL VEHICLE: A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, travel trailers, and tent trailers.

SETBACK: The minimum horizontal distance which a structure or building, or any portion thereof, is required to be located from the boundaries of the lot upon which the same is situated.

SIGNS: Any words, numbers, figures, devices, designs, or trademarks, including billboards, by which anything is made known and which are visible from the exterior of the structure.

STREET: A dedicated right-of-way, road, or other thoroughfare (but not an alley) permanently established for the passage of persons and vehicles.

1. A “public street” is a street which is maintained by a governmental entity, such as the Muskegon County Road Commission.

2. A “private street” is a street which is not maintained by a governmental entity. The term “private street” shall include any private easement for vehicular travel. A private drive serving a single lot, located entirely on the same lot, is not a private street; it is a “driveway”.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. “Structure” includes but is not limited to a “building”.

SWIMMING POOL: Any artificially constructed, portable or non-portable pool capable of being used for swimming or bathing, having a depth of three (3) feet or more at any point.

WILDLIFE PRESERVE: An area enclosed by an approved fence where wildlife or non-domesticated animals are raised but not hunted.

ZONES OR ZONING DISTRICT BOUNDARIES: Where uncertainty exists as to the boundaries of any of the districts or zones shown on the zoning map, the following rules shall apply:

1. Zone boundary lines are intended to be parallel or perpendicular to street, alley, or lot lines, unless such zone boundary lines are fixed by dimension, as shown on said zoning map.

2. Where zone boundaries are indicated as approximately following street or alley lines or proposed street lines, such lines shall be construed to be such boundaries.

3. Where zone boundaries are so indicated that they approximately follow lot lines and are not more than twenty five (25) feet distant therefrom, such lot lines shall be such boundaries.

4. In the case of unplatted property or where a zone boundary divides a lot, then the location of any such boundary, unless the same is indicated by dimensions shown on such maps, or described in the text of the Ordinance, shall

be determined by the use of the map scale shown thereon and scaled to the nearest foot, but subject to subparagraph 3 above.

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ARTICLE 3

ZONING DISTRICTS

The Township of Montague shall be divided into zoning districts, as hereinafter described, within which districts no buildings, structures, or land shall be used and no building or structure shall hereafter be erected, altered, occupied, used, or located except for the uses and purposes hereinafter set forth as “permitted uses” under each separate zoning district classification, or hereinafter set forth as “conditional uses” under each such zoning district classification; subject, however, to such prior approval as is hereinafter required to be obtained from the Township for such conditional uses.

“AG” AGRICULTURAL DISTRICT

3.01 STATEMENT OF PURPOSE

Agricultural districts are those open areas of the Township where agricultural operations and other such rural-type activities exist and should be preserved or encouraged. Large vacant areas, fallow land, and wooded areas may also be included. Although the demand for other uses in these districts may ultimately out-weigh their use as zoned, any such other uses and zoning changes should be made cautiously with the realization that adequate food supply is essential to the general health and welfare.

3.02 PERMITTED USES

1. A single family dwelling, barns, stables, silos, state or county approved housing for farm labor, and accessory buildings, structures and uses customarily incidental to any of the foregoing permitted uses.

2. Agricultural and other similar bona fide farming operations including composting but excluding rendering plants or commercial fertilizer production.

3. Essential services.

4. Retail markets used temporarily during the growing and harvest seasons for the sale of products grown or produced upon the premises, together with incidental products related thereto not grown or produced upon the premises but which are an unsubstantial part of said business, and including a temporary advertising sign not more than eight (8) square feet in area advertising such products.

5. Riding stables and related equine facilities.

6. Wildlife preserves, on a minimum twenty (20) acre lot.

7. One additional single family home on a farm located on a lot at least forty (40) acres.

8. Plant or tree nurseries and greenhouses, with or without on-site wholesale or retail sales facilities related thereto.

9. Accessory buildings and uses customarily incident to any of the foregoing when located on the same lot.

3.03 CONDITIONAL USES

1. Planned unit development.

2. Structures, buildings, or uses not named in Sections 3.02 or 3.03, but which are similar thereto.

3. Duplex dwellings.

4. Cider Mills.

5. Campgrounds.

6. Shooting clubs and hunting preserves, on a minimum 160 acre lot.

7. Restaurants, other than drive-in restaurants.

8. Removal of Natural Resources as stated in Article 4.

9. Home occupations, including barber and beauty shops.

10. Raising fur bearing animals in captivity for commercial purposes.

11. Parks, recreational areas and golf courses.

12. Kennels.

13. Private aircraft (including powered parachutes and ultralight aircraft) landing fields.

14. Bed and Breakfast establishments.

15. Essential services buildings.

16. Cemeteries.

17. Churches.
18. Community and municipal buildings.
19. Child daycare facilities.
20. Veterinary clinics.
21. Lumber mills and sawmills.

3.04 LOT REQUIREMENTS

No building may be constructed on any lot with an area less than twenty (20) acres; provided that lots containing dwellings which existed on April 26, 1988, may be divided into a one (1) square acre lot or larger, subject to the approval of the Township in accordance with the Michigan Land Division Act, and subject to the requirement that the dwellings located on such one (1) acre lot have lot line setbacks of at least fifty (50) feet from all side and rear lot lines. Provided further that this provision shall not apply to essential services and essential services buildings, which may be located on lots of any size appropriate to the nature of the essential services and/or essential services buildings as determined by the Zoning Administrator. **(Amended April 2004.)**

3.05 FARM ACCESSORY BUILDING SETBACK FROM DWELLINGS

No farm accessory building containing animals shall be located within one hundred fifty (150) feet of any dwelling, provided however that any such building existing on the effective date of this Ordinance may be rebuilt, altered, repaired, improved, or expanded, as a conditional use in this zoning district.

3.06 DWELLING SIZE AND SETBACK REQUIREMENTS

All dwellings shall have a minimum living space of nine hundred (900) square feet. All buildings shall have a minimum setback of fifty (50) feet from any lot line, except that no accessory building housing animals shall be located within one hundred twenty five (125) feet of a side or rear lot line. No non-agricultural building height shall exceed thirty five (35) feet or 2 ½ stories, whichever is greater. Agricultural storage building heights shall not exceed ninety (90) feet. Also see Section 13.15.

“R-1, R-2, R-3, R-4” RESIDENTIAL DISTRICTS

3.11 STATEMENT OF PURPOSE

This district classification is designed to encourage an environment of predominantly single family dwellings, together with a minimum of other residentially related facilities and activities primarily of service to the residents in the area. Where appropriate, more intensive residential uses may be feasible and desirable, and are thus made conditional uses.

3.12 PERMITTED USES

1. Private single family dwellings, including up to two (2) private garages, and/or other accessory buildings, either attached or detached. A third private garage and/or accessory building per lot may be allowed as a conditional use, provided that at least one (1) of the three (3) shall be a private garage attached to the single family dwelling.
2. Essential services.

3.13 CONDITIONAL USES

1. Structures, buildings or uses which are not named in Sections 3.12 or 3.13, but which are similar thereto.
2. Planned unit development.
3. Essential services buildings.
4. Duplex dwellings, in “R-2” and “R-3” districts only, but not in “R-1” districts; multiple family dwellings in “R-3” districts only, but not in “R-1” and “R-2” districts.
5. Home occupations, including barber and beauty shops.
6. Municipal and other governmental buildings.
7. Golf courses, country clubs, parks, and other similar recreational facilities, but excluding shooting clubs and hunting preserves.
8. Child daycare facilities.
9. Bed and Breakfast establishments.
10. Churches.

11. Public and private schools and educational institutions, libraries, and other municipal structures and uses.

12. The keeping of horses (including ponies, donkeys, and mules), provided that a minimum lot size of two (2) acres shall be required to keep one (1) such animal, a minimum of three (3) acres to keep two (2) such animals, a minimum of four (4) acres to keep three (3) such animals, a minimum of five (5) acres to keep four (4) such animals, and a minimum of six (6) acres to keep five (5) such animals. The keeping of more than five (5) of such animals shall be prohibited. The keeping of such animals shall be for personal use only and shall not involve the commercial boarding and/or training of such animals.

13. The use of a lot with frontage on White Lake for “keyhole access” as set forth on Section 4.31 of this ordinance. (**Amended May 2004.**)

3.14 DIVISION OF “R” ZONING DISTRICTS; LOT SIZE REQUIREMENTS

1. “R” zoning shall be divided into separate districts, denoted as “R-1”, “R-2”, “R-3”, or “R-4”. The purpose of this division is to recognize and encourage factors and circumstances which indicate the need for differing lot area dimensions in different “R” districts within the Township.

2. The minimum lot area, width, and depth dimensions shall be as follows, and no building shall be constructed on any lot not in compliance with these minimum dimensions:

<u>District</u>	<u>Lot Area</u>	<u>Lot Front/Rear Lines and Lot Width</u>	<u>Lot Side Lines and Lot Depth</u>
“R-1”	30,000 sq ft	100 ft	100 ft
“R-2”	1 acre	150 ft	150 ft
“R-3”	2 acres	200 ft	440 ft
“R-4”	5 acres	300 ft	500 ft

3.15 DWELLING SIZE AND SETBACK REQUIREMENTS

All dwellings shall have a minimum living space of nine hundred (900) square feet. All buildings shall have minimum lot line setbacks as follows: front lot line forty (40) feet, side lot lines fifteen (15) feet or ten percent (10%) of lot width, whichever is less, and rear lot lines of twenty five (25) feet. Building height shall not exceed 2 ½ stories or thirty five (35) feet, whichever is greater, provided that accessory buildings less than eight (8) feet building height and one hundred fifty (150) feet square feet floor area may be located at least five (5) feet from a rear or side lot line. No private garage or accessory building shall exceed two thousand five hundred (2,500) square feet in size. Also see Section 13.15.

“MH” MOBILE HOME DISTRICT

3.21 STATEMENT OF PURPOSE

In recognition of the need for properly developed areas to accommodate mobile homes and mobile home parks, this district is designed to provide for such uses under appropriate construction and development standards to promote the health, safety, and general welfare of the residents of such areas as well as the resident of adjoining premises. The areas zoned for such purposes should be able to accommodate the increased traffic generated from such developments as well as the sanitary requirements of the same. Such area should also be suitable for residential use and should be so located as not to impede other more conventional residential developments in the vicinity.

3.22 PERMITTED USES

1. Mobile home and manufactured home parks, together with accessory buildings and uses customarily incident thereto, including recreational buildings and facilities, laundry facilities, maintenance garage and storage facilities and also a residence for the mobile home park owner or operator, but excluding any retail sales of mobile homes unless the same are located upon a developed mobile home site. Provided further that all mobile home parks shall be subject to site plan review.

2. Single family dwellings.

3. Essential Services.

4. Accessory buildings and uses customarily incident to any of the foregoing uses when located on the same lot not involving the conduct of a business.

3.23 CONDITIONAL USES

1. Structures, buildings, or uses which are not named in Sections 3.22 or 3.23, but which are similar thereto.

2. Planned unit development.

3. Essential services buildings.

4. Duplex and multiple family dwellings.

5. Home occupations, including barber and beauty shops.

6. Municipal and other governmental buildings.
7. Golf courses, country clubs, parks, and other similar recreational facilities, but excluding shooting clubs and hunting preserves.
8. Child daycare facilities.
9. Bed and Breakfast establishments.
10. Churches.
11. Public and private schools and educational institutions, libraries, and other municipal structures and uses.

3.24 LOT SIZE REQUIREMENTS

No building or mobile home shall be constructed or placed upon any lot in this zoning district with an area less than one (1) acre and with lot rear and front lines and lot side lines of less than one hundred fifty (150) feet each.

3.25 DWELLING SIZE AND SETBACK REQUIREMENTS

Any single family dwelling, including mobile homes not located within a mobile home park, shall have a minimum living area of nine hundred (900) square feet, and have a minimum front lot line setback of forty (40) feet, have minimum side lot line setbacks of fifteen (15) feet or ten percent (10%) of lot width, whichever is less, and a rear lot line setback of twenty five (25) feet. Building height shall not exceed 2 ½ stories or thirty five (35) feet, whichever is greater, provided that accessory buildings less than eight (8) feet building height and one hundred fifty (150) feet square feet floor area may be located at least five (5) feet from a rear or side lot line. No private garage or accessory building shall exceed one thousand (1,000) square feet in size. Also see Section 13.15.

“C” COMMERCIAL DISTRICT

3.31 STATEMENT OF PURPOSE

This district is designed to provide retail sales and commercial service uses catering to the general public as distinguished from industry. Also see Article 8 regarding site plans, which are required in “C” districts.

3.32 PERMITTED USES

1. Retail sales businesses where no on-premises assembling, treatment, or manufacturing is required, if the floor area is 10,000 square feet or less. **(Amended June 2015.)**

2. Offices and office buildings.
3. Banks, building and loan associations, and other financial institutions.
4. Funeral parlors.
5. Restaurants, except as defined in Section 3.33(11).
6. Churches.
7. Indoor theaters.
8. Hotels or motels.
9. Bowling facilities.
10. Barber shops and beauty parlors.
11. Shoe repair shops.
12. Essential services.
13. Car wash facilities.
14. Community and municipal buildings.
15. Commercial garages, excluding paintshops.
16. Self-storage facilities.

17. Accessory buildings and uses customarily incident to any of the foregoing, not including any manufacturing or treatment activities, but including an owner's or caretaker's residence or apartment accessory to the principal commercial use.

18. Retail stores, whether individually as a "standalone" store, or grouped with one or more other stores as a shopping center, if the floor area is 10,000 square feet or less. **(Amended June 2015.)**

3.33 CONDITIONAL USES

1. Structures, buildings or uses which are not named in Sections 3.32 or 3.33, but which are similar thereto.

2. Planned unit development.

3. Automatic dry cleaning or laundry facilities.

4. Gasoline service stations.

5. Indoor or outdoor commercial recreational facilities.

6. Country Clubs, golf courses, parks, and recreational facilities.

7. Veterinary hospitals.

8. Kennels and pet shops.

9. Bus terminals.

10. Lumber yards and sawmills.

11. Drive-in eating and fast food establishments.

12. Wholesale sales.

13. Enclosed warehouses.

14. Bed and breakfast establishments.

15. Sign shop.

16. Cider mill.

17. Cemeteries.

18. Plant and tree nurseries and greenhouses, with or without on-site wholesale or retail sales facilities related thereto.

19. Automobile body and automobile paint shops.

20. Junk yards, which are completely fenced in and visually screened from all neighboring lots.

22. Facilities not named in Sections 3.32 of 3.33 but which are similar thereto.

23. Accessory buildings and uses customarily incident to any of the foregoing uses when located on the same lot.

24. Sexually oriented business.

25. Light manufacturing and/or assembly operations, provided that such uses shall strictly comply and continue to comply with the following condition and requirements:

A. The use and any structure pertaining thereto would not materially adversely affect any neighboring future or present commercial uses.

B. That there would exist no more than nominal noise, vibration, heavy truck traffic, smoke, odors, and pollution.

C. That the appearance of the property and structures be such as would favorably reflect upon any future or present adjoining commercial uses. Further, that any tanks, finished products, inventory, materials, waste, machinery or other evidence of the manufacturing or assembly processes be kept indoors, or if kept outdoors be absolutely screened by fencing or evergreen vegetation.

D. That the applicant detail the nature of the processes involved and that same not be materially altered and that the proposed facility not be expanded, without first obtaining an amended conditional use permit.

26. Essential services buildings.

27. Private clubs and fraternities.

28. Child daycare facilities.

29. Duplex and multiple family dwellings.

30. Laundry and drycleaning facilities.

31. Hospitals.
32. Nursing homes.
33. Public and private schools.

34. Retail sales businesses where no on-premises assembling, treatment, or manufacturing is required, if the floor area exceeds 10,000 square feet. **(Amended June 2015.)**

35. Retail stores, whether individually as a “standalone” store, or grouped with one or more other stores as a shopping center, if the floor area exceeds 10,000 square feet. **(Amended June 2015.)**

3.34 LOT SIZE REQUIREMENTS; SETBACKS; HEIGHT REQUIREMENTS

No building shall be constructed or placed upon any lot with an area less than one (1) acre and with lot rear and front lines and lot side lines of not less than one hundred fifty (150) feet each. Buildings shall have minimum lot line setbacks as follows: front lot line of fifty (50) feet, rear lot line of twenty five (25) feet, and side lot lines of fifteen (15) feet, unless reduced to a lesser distance as a conditional use. No building shall exceed 2 ½ stories or thirty five (35) feet, whichever is greater. Also see Section 13.15.

"I" INDUSTRIAL DISTRICT

3.41 STATEMENT OF PURPOSE

This district is designed for manufacturing, assembling and fabricating business and commercial activities which cause a minimum of adverse effect beyond the boundaries of the site upon which they are located. In addition this district is intended to encourage the development of enterprises which can be considered to be light industry, in a setting conducive to public health, economic stability and growth. The use regulations as well as the area, height, bulk, and placement regulations, reflect the intent of this district. Also, see Article 8 regarding site plans, which are required in "I" Districts.

3.42 PERMITTED USES

1. Lumber yards, sawmills, and lumber mills, if the floor area is 10,000 square feet or less. (**Amended June 2015.**)

2. Warehousing and Wholesale. The sale at wholesale or the warehousing of dry goods and apparel; automotive equipment; groceries and related products; farm products except for livestock; hardware, plumbing and heating supplies and related equipment; electrical supplies and products; equipment and machinery; beer, wine, and distilled alcoholic beverages; tobacco and tobacco products; paper and paper products; furniture and home furnishings; any product the manufacture of which is permitted in this district, if the floor area is 10,000 square feet or less. (**Amended June 2015.**)

3. Accessory buildings customarily incidental to the permitted uses.
4. Banks, building and loan associations, and other financial institutions.
5. Barber and beauty shops.
6. Bowling facilities.
7. Car wash establishments.
8. Essential services.
9. Essential service buildings.
10. Self-storage facilities.
11. Restaurants.

(Amended 06/09/2015)

12. Retail stores, whether individually as a “standalone” store, or grouped with one or more other stores as a shopping center, if the floor area is 10,000 square feet or less. (**Amended June 2015.**)

13. Offices and office buildings.

14. Shoe repair.

15. Theaters.

16. Commercial garages.

17. Open air sales.

18. Accessory buildings and uses customarily incident to any of the foregoing uses when located on the same lot and not involving the conduct of a business.

3.43 CONDITIONAL USES

1. Structures, buildings, or uses which are not named in Sections 3.42 or 3.43, but which are similar thereto.

2. Tool and die shops; machine shops involving the use of cutting, grinding or welding tools to produce such as jigs and fixtures.

3. Printing or publishing facilities; box, carton, or forming of other cardboard products.

4. The assembly, fabrication, or manufacture of food products, candy, cosmetics and toiletries, musical instruments, toys, novelties, appliances, electronic devices, pottery, and ceramic products using previously pulverized clay.

5. The assembly, fabrication, manufacture or treatment of products from the following previously prepared materials: bone, plastics, cloth, glass, fiber, leather, paper, metal (excluding large stampings), wire, or wood.

6. Metal plating facilities.

7. Concrete and asphalt facilities.

8. Bed and breakfast establishments.

9. Bus terminals.

10. Cemeteries.

11. Cider mills.
12. Social or beneficial clubs or fraternities.
13. Child daycare facilities.
14. Restaurants, excluding drive-in restaurants.
15. Gasoline service stations and commercial garages.
16. Plant nurseries and greenhouses.
17. Junkyards.
18. Motor freight terminals.
19. Municipal and other governmental buildings.
20. Extraction of natural resources.
21. Parks and recreational areas.
22. Public and private schools and educational facilities.
23. Veterinary clinics.
24. Sexually oriented businesses.
25. Planned unit developments.
26. Kennels.
27. Accessory buildings and uses customarily incident to any of the foregoing uses when located on the same lot.
28. Lumber yards, sawmills, and lumber mills, if the floor area exceeds 10,000 square feet. (**Amended June 2015.**)
29. Warehousing and Wholesale. The sale at wholesale or the warehousing of dry goods and apparel; automotive equipment; groceries and related products; farm products except for livestock; hardware, plumbing and heating supplies and related equipment; electrical supplies and products; equipment and machinery; beer, wine, and distilled alcoholic beverages; tobacco and tobacco products; paper and paper products; furniture and home furnishings; any product the manufacture of which is permitted in this district, if the floor area exceeds 10,000 square feet. (**Amended June 2015.**)

30. Retail stores, whether individually as a “standalone” store, or grouped with one or more other stores as a shopping center, if the floor area exceeds 10,000 square feet. **(Amended June 2015.)**

3.44 LOT SIZE REQUIREMENTS; SETBACKS; BUILDING HEIGHTS

No building shall be constructed or placed upon any lot with an area less than two (2) acres and with lot rear and front lines and lot side lines of not less than two hundred (200) feet. Buildings shall have a minimum lot line setback of fifty (50) feet, and maximum building heights of fifty (50) feet, unless altered as a conditional use. **(Amended June 2015.)**

3.45 PERFORMANCE REQUIREMENTS

1. All manufacturing, compounding, and/or processing must be conducted wholly within a completely enclosed building. Any portion of the lot used for outside storage materials or equipment shall be totally obscured by a six (6) foot masonry or other acceptable permanent and fully opaque wall, on those sides abutting any residential district or any public thoroughfare.

2. The noise level measured at the property lines shall not exceed 65 decibels. In addition there shall be no obnoxious noise, even of an intermittent nature such as that characterized by high frequency, even though it is less than 65 decibels.

3. Vibrations due to operations or equipment shall not be detected at the property line.

4. There shall be no emissions of dirt or dust due to procedures, operations or equipment, which can be detected at the property line. All furnace or combustion devices must include control of any gas borne or airborne particle to standards established by the State of Michigan or 0.2 grains per cubic foot of carrying medium.

5. Smoke, except water vapor, shall not exceed that designated as NO. 2 on the Ringelmann Chart for more than four (4) minutes in any one-half hour period.

6. Any operation generating intense glare of heat shall be enclosed such that the operation is shielded from direct view from any point on the lot line.

7. Storage and use of all flammable liquids, flammable gasses, and explosives shall comply with the regulations of Montague Township, Muskegon County, and the State of Michigan.

8. All industrial wastes shall be disposed of in a manner meeting the regulations and requirements of Montague Township, Muskegon County, the State of Michigan, and/or the Federal Government, whichever has jurisdiction. Connection to a municipal sewer is mandatory if available. The disposition of waste disposal, and any jurisdictional questions must be resolved before any construction can proceed.

"F-R" FORESTRY RECREATIONAL DISTRICT

3.51 STATEMENT OF PURPOSE

To preserve the natural wooded, rural character of the Township by encouraging compatible low density developments and open space uses, and by discouraging the development of inappropriate land use activities.

3.52 PERMITTED USES

1. Wildlife preserves, on a minimum twenty (20) acre lot.
2. Forestry uses.
3. Public parks and non-motorized recreation areas.
4. Single family dwellings.
5. Wildlife preserves.
6. Essential services.
7. Accessory buildings and uses customarily incident to any of the foregoing uses when located on the same lot or parcel of land and not involving the conduct of a business.
8. The keeping of horses (including ponies, donkeys and mules), provided that a minimum lot size of two (2) acres shall be required to keep one (1) such animal, and a minimum of three (3) acres to keep two (2) such animals, a minimum of four (4) acres to keep three (3) such animals, a minimum of five (5) acres to keep four (4) such animals, a minimum of six (6) acres to keep five (5) such animals. The keeping of more than five (5) such animals shall require a Conditional Use Permit. **(Amended March 2003.)**

3.53 CONDITIONAL USES

1. Structures, buildings or uses which are not named in Sections 3.52 or 3.52, but which are similar thereto.
2. Private aircraft (including powered parachutes and ultralight aircraft) landing fields.
3. Hunting preserves, on a minimum one hundred sixty (160) acre lot.
4. Golf courses and country clubs.
5. Plant and tree nurseries and greenhouses, with or without on-site wholesale or retail sales facilities related thereto, and forestry operations, together with retail and wholesale sales related thereto.
6. Home occupations, including barber and beauty shops.

(Amended 11/12/02)

7. Planned unit development.
8. Bed and Breakfast establishments.
9. Campgrounds, recreational areas, and parks.
10. Essential services buildings.
11. Kennels.
12. Removal of Natural Resources as stated in Article 4.
13. Churches.
14. Cider mills.
15. Child daycare establishments.
16. Duplex dwellings.
17. Private schools and private educational institutions.
18. Riding establishments and other equine related facilities.
19. Cemeteries.
20. Private clubs and fraternities.
21. Community and governmental buildings.
22. Accessory buildings and uses customarily incident to any of the foregoing uses when located on the same lot or parcel of land.

3.54 LOT SIZE REQUIREMENTS

All lots shall have a minimum lot area of five (5) acres, and minimum front and rear lot lines of three hundred (300) feet.

3.55 DWELLING SIZE AND SETBACKS

All dwellings shall have a minimum living space of nine hundred (900) square feet. All buildings shall have a minimum setback of fifty (50) feet from any lot line, except that no accessory building housing animals shall be located within 125 feet of a side or rear lot line. No non-farming building height shall exceed thirty five (35) feet or 2 ½ stories, whichever is greater. No garage or accessory

building shall exceed three thousand (3,000) square feet in floor area. No accessory building containing animals shall be located closer than one hundred (100) feet to any dwelling. Also see Section 13.15.

PERMANENT AND TRANSITIONAL OPEN SPACES

3.61 STATEMENT OF PURPOSE

These districts apply to land that is deemed contaminated or suspected of contamination.

3.62 THE PERMANENT OPEN SPACE DISTRICT

This district applies to land that is contaminated to the point that it must be set aside for the foreseeable future. Access by the general public is prohibited and the site must be fenced, marked, and supervised. This designation is intended to apply primarily to waste vaults, which are intended for permanent storage of toxic waste.

3.63 TRANSITIONAL OPEN SPACE

This district applies to land that is contaminated or suspected of contamination. In general, land in this district is intended for or potentially subject to remediation which is not yet complete. Access by the general public is not allowed, although access by invitation of the owner of the property or the owner's agent is allowed. Activities on the property are limited to remedial actions, until such time as governmental authorities having jurisdiction over the remediation certifies that the remediation is complete and successful. The decision to rezone transitional open space will include, among other considerations, recommendations from appropriate government authorities regarding the remediation and the safety of the general public.

"AIRPORT" DISTRICT

3.71 STATEMENT OF PURPOSE

This district applies to land that is or may become suitable for airport facilities.

3.72 PERMITTED USES

1. Agriculture.
2. Public and private airfields.
3. Single family dwellings.
4. Essential services.
5. Accessory buildings and uses customarily incident to any of the foregoing uses when located on the same lot.

3.73 CONDITIONAL USES

1. Structures, buildings, or uses which are not named in Section 3.72 which are similar thereto.
2. Bed and breakfast establishments.
3. Home occupations, including barber and beauty shops.
4. Bus stations.
5. Campgrounds.
6. Community and municipal buildings.
7. Duplex dwellings.
8. Essential service buildings.
9. Commercial garages.
10. Hotels and motels.
11. Kennels.

12. Removal of natural resources, subject to Article 4.
13. Offices.
14. Parks.
15. Retail stores.
16. Restaurants, excluding drive-in restaurants.
17. Private schools.
18. Self-storage facilities.
19. Warehouses.
20. Wildlife preserves.

3.74 LOT SIZE, BUILDING SIZE AND SETBACK REQUIREMENTS

The lot size, building size, and setback requirements in the "Airport" Zoning District shall be as follows:

1. For residential uses, the minimum lot sizes is twenty (20) acres, the setbacks are the same as applicable in the "R-3" Residential Zoning District.
2. For commercial uses, the same as applicable in the "C" Commercial Zoning District.
3. For agricultural uses, the same as applicable in the "A" Agriculture Zoning District.
4. Anything to the contrary notwithstanding, uses for which stricter standards are set in Article 4 shall comply with such Article 4.

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ARTICLE 4

CONDITIONAL USES

4.01 PURPOSE

In order to make this Ordinance a flexible zoning control and still afford protection of property values and orderly and compatible development of property within the Township, the Planning Commission, in addition to its other functions, is authorized to review and recommend to the Township Board the approval, modification, or denial of the establishment of certain uses designated as conditional uses within the various zoning classifications set forth in the Ordinance.

Such conditional uses have been selected because of the unique characteristic of the use which, in the particular zones involved, under certain circumstances and without proper controls or limitations, might be incompatible with the other uses permitted in such zoning district and accordingly detrimental thereto.

With this in mind, such conditional uses are not permitted to be engaged in within the particular zone in which they are listed unless and until the Township Board is satisfied that the same, under the conditions, controls, limitations, circumstances and safeguards proposed therefor and imposed by said Board, would be compatible with the other uses expressly permitted within said district, with the environment and the capacities of public services and facilities affected by the land use; would not, in any manner, be detrimental or injurious thereto; would not, in any manner, be detrimental or injurious to the use or development of adjacent properties to the occupants thereof or to the general neighborhood; would promote the public health, safety, morals and general welfare of the community; would encourage the use of lands in accordance with their character and adaptability; and that the standards required by the Township Board for the allowance of such conditional uses can and will, in its judgment, be met at all times by the applicant.

The following sections, together with references in Article 3, designate what uses require a conditional use permit.

4.02 APPLICATION PROCEDURE

Applications shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover costs of processing the application.

The application shall include the following:

1. Special form supplied by the Zoning Administrator filled out in full by the applicant.
2. Site plan drawn to a readable scale of the total property involved showing the location of abutting streets, the location of all existing and proposed structures, and the types of structures, buildings and their uses.
3. A statement with supporting evidence regarding standards specified in Section 4.04.

4.03 NOTICE OF PUBLIC HEARING, REVIEW, FINDINGS, AND ISSUANCE OF WRITTEN CONDITIONAL USE PERMITS

1. The Planning Commission shall set a date for a public hearing within forty five (45) days after receipt of an application. Upon receipt of an application for a conditional use the Planning Commission shall publish and provide required notices of public hearing as follows:

A. Publish notice of the request in a newspaper of general circulation in Montague Township.

B. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in Montague Township.

C. The notice shall be given not less than fifteen (15) days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice shall do all of the following:

- (1) Describe the nature of the request;
- (2) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used;
- (3) State when and where the request will be considered; and

(4) Indicate when and where written comments will be received concerning the request.

(Amended December 2006.)

2. The Planning Commission shall review the application and accompanying site plan, pursuant to the standards and requirements set forth in Section 4.04, and any other applicable criteria.

3. Following such hearing, said Planning Commission shall recommend either the grant (with or without conditions) or denial of a permit for such conditional use and shall state its reasons for its recommendation in the matter. Such decision shall be communicated to the Township Board, which shall entertain such conditional use request and review the recommendation at its next regular meeting. The Township Board shall either grant or deny such request and state the reasons for its decision. All conditions, limitations, and requirements upon which any such permit is granted shall be specified by the Township Board in its decision and shall be filed with the Zoning administrator for the Township. Any conditions, limitations or requirements upon which approval is based shall be reasonable and designed to protect natural resources, the health, safety and welfare and the social and economic well-being of the area adjacent thereto and of the community as a whole; constitute a valid exercise of the police power and be related to the purposes which are effected by the proposed use or activity; be consistent with the intent and purpose of the Zoning Ordinance; designed to insure compatibility with adjacent uses of land and the natural environment; and be designed to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, and otherwise comply with applicable sections of this Ordinance.

4.04 GENERAL STANDARDS FOR MAKING DETERMINATIONS

The Planning Commission and Township Board shall review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed conditional use:

1. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.

2. Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;

3. Will not create excessive additional requirements at public cost for public facilities and services; and will not be detrimental to the economic welfare of the community.

4. Will not involve uses, activities, processes, materials, equipment, and/or conditions of operation that may be hazardous, detrimental, or a nuisance to any person, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, vibrations, glare, or odors.

5. Will be consistent with the intent and purposes of this Ordinance, including the zoning district in which the proposed conditional use is situated.

4.05 CONDITIONS AND SAFEGUARDS

1. Prior to granting any conditional use permit the Township Board may impose additional conditions or limitations upon the establishment, location, construction, maintenance, or operation of the use authorized by the conditional use permit as may be reasonably necessary for the protection of the public interest.

2. Conditions and requirements stated as part of conditional use permit shall be the continuing obligation of conditional use permit holders. The Zoning Administrator is authorized to make periodic investigations of developments authorized by a conditional use permit to determine compliance with all requirements.

3. Conditional use permits may be issued for an unlimited period of time or for a specific duration of time, as determined by the Township Board. In the event that a conditional use permit is granted only for a specific duration of time, then at the expiration of such time the conditional use permit shall be deemed terminated unless renewed according to the procedures otherwise applicable for the issuance of an original conditional use permit.

4. In authorizing a conditional use permit, the Township Board may require that a cash deposit, certified check, bond, letter of credit, or other financial guarantee acceptable to the Township Board, in such reasonable amount as the Township Board shall determine to be appropriate, be furnished by the applicant to insure compliance with the terms of the conditional use permit and with such other requirements as the construction of drives, walks, utilities, parking, landscaping, and the like. The financial guarantee shall be deposited with the Township Clerk at the time of issuance of the permit authorizing the use or activity. As work progresses, the Township Board may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.

5. All plans, specifications, and statements submitted with the application for a conditional use permit shall become, along with any changes ordered by the Township Board, a part of the conditions of any permit issued thereto.

6. The general procedures and standards in Sections 4.01 through 4.07 are basic to all conditional uses. Specific requirements accompanying specific designated uses, as set forth commencing in Section 4.08, are additional requirements and shall be required in applicable situations.

4.06 TERMINATION OR ABANDONMENT OF A CONDITIONAL USE

Conditional use permits may be terminated in the event that there is abandonment or a material violation of the terms or conditions of such conditional use permit by the owners or occupants of the property granted the conditional use permit. In such event, the conditional use permit shall be terminated pursuant to the following procedure:

1. The Zoning Administrator or the Township Board shall provide the owner of the property with a written statement detailing the alleged violation or nonconformity with the terms or conditions of the conditional use permit. Such statement shall be deemed an order to correct the alleged violation or deficiency.

2. In the event that such violation or such deficiency has not been cured within the time specified in such statement, then the Township Board shall review the matter at a regular meeting or special meeting called for such purpose. The owner shall be provided written notice of such meeting, and may be present at such meeting to present his/her position and facts supporting their position.

3. If the Township Board shall determine that there does exist a material violation or nonconformity, with respect to the terms or conditions of the conditional use permit granted, which was not cured as set forth in the notice of violation, then the Township Board may in its discretion take the following action:

A. Defer the matter for up to an additional thirty (30) days in order to give the applicant additional time to complete cure of any deficiency or nonconformity, if such attempts at cure have previously been undertaken but have not yet been completed; or,

B. If the property owner has filed a request to amend the conditional use permit such that the alleged violations or nonconformities with the existing conditional use permit would no longer be deemed violations or nonconformities, the Township Board may defer further action until the hearing on the permit amendment is reviewed and a recommendation made by the Planning Commission as in the case of an application for an original permit; or,

C. Terminate the conditional use permit.

4. Any conditional use which has been abandoned for a period of one hundred eighty (180) consecutive days, shall thereafter be required to be used for only permissible uses set forth in the particular zoning classification, and the permit for such conditional use shall thereupon terminate. Upon such termination, the Township Board may order the owner of such property to restore, at the owner's expense, the property to pre-conditional use status and condition, and upon failure to do so may order Township agents to make such corrections and assess the cost thereof as a lien against such property, as provided hereinafter.

4.07 DECISION OF THE TOWNSHIP BOARD; APPEAL TO THE CIRCUIT COURT

The decision of the Township Board shall be final and contain the findings and determination of the Township Board in each particular case. Persons aggrieved by the determination of the Township Board shall have the right to appeal to the Circuit Court for Muskegon County, which appeal shall be brought within thirty (30) days of issuance of the decision by the Township Board.

4.08 ADDITIONAL SPECIFIC REQUIREMENTS FOR SPECIFICALLY IDENTIFIED CONDITIONAL USES

The following provisions of this Article 4 provide and are designed to provide additional requirements and conditions applicable to specifically identified conditional uses, it being the Township's determination that the foregoing specific conditional uses may require additional regulations above and beyond and in addition to the general standards applicable to all conditional uses, as set forth in Section 4.04 above.

4.09 ADDITIONAL REQUIREMENTS FOR GASOLINE SERVICE STATIONS

1. General Regulations:

A. The minimum setback for the street right-of-way for buildings or pumps shall be seventy five (75) feet.

B. The minimum greenbelt buffer area of at least twenty five (25) feet shall be provided around the perimeter of the lot, unless reduced by the Township Board where such a buffer is deemed unnecessary because of the circumstances of neighboring lots.

2. Construction Standards:

A. Separation shall be made between the pedestrian sidewalk and vehicular parking or moving area with the use of appropriate bumper, wheel

guards or traffic islands. Where the portion of the property used for vehicular traffic abuts a street, said portion shall be separated from the street line by a curb at least six (6) inches high.

B. The entire area used for vehicle service shall be paved, and all other areas shall be landscaped and protected from vehicular use by a low barrier.

C. Hydraulic hoist, lubricating, greasing, washing, and repair equipment shall be entirely within a building.

D. The maximum widths of all driveways at the sidewalk shall be no wider than thirty (30) feet, unless a wider distance is required by the Road Commission or Department of Transportation.

E. Minimum angle of driveway intersection with the street from the curb line to lot line shall be no less than sixty (60) degrees.

F. The minimum distance between curb cuts shall be no less than forty (40) feet.

3. Lighting: All lighting shall be accomplished in a manner such that no illumination source directly shines upon adjacent properties.

4.10 ADDITIONAL REQUIREMENTS FOR DEVELOPMENT OF NATURAL RESOURCES

1. A conditional use permit shall be required for the excavation of topsoil, excavation of soils and minerals other than topsoil, and the commercial extraction of water, as set forth below.

2. Excavation of Topsoil: Topsoils shall not be stripped, excavated, or otherwise removed for sale or for use other than on the premises from which it was taken except:

A. When in connection with construction operations and the grading operations necessary thereto when topsoil is in surplus amounts.

B. When as a product of authorized excavation of other soils and minerals as otherwise provided in this Ordinance.

3. Excavation of Soils and Minerals Other Than Topsoil: The excavation or extraction of water, peat, muck, sand, gravel, clay, or other mineral deposits for commercial purposes may be permitted as a conditional use in any district, except for Residential zoning districts. The permit may include authorization for the erection, installation, and use of necessary buildings, structures, and appurtenances incidental to such operation.

4. Commercial Extraction of Water: The nongovernmental commercial extraction of water may be allowed as a conditional use, upon the following terms and conditions:

A. All state and county regulations pertaining to the activity shall apply at time of application for use and continue to apply as such regulations may thereafter change from time to time; no interest in the use shall vest to prevent the application of such regulations as they from time to time apply. At the time of application or re-issuance of a Township permit, any applicant shall present in writing from the proper authorities any state or county requirements pertaining to the use of the premises for which the permit is requested.

B. The extraction of water for sale shall be limited to the filling of containers of not less than one hundred (100) gallon capacity for removal for consumption and retail sales off of the premises containing the permitted use.

C. Not more than two thousand (2,000) gallons per one and one-quarter (1 1/4) acre per parcel in any one (1) week shall be extracted under a permit, and the applicant shall keep a log or other records as from time to time may be required by the Township. Private or public easements or streets shall be deducted when computing available acreage.

D. The issuance of a permit shall not imply any permission, sanction or approval for the unreasonable lowering or depleting of the head pressure or supply of water on any other well or spring dependent upon the same head, vein or stratum.

E. As with all conditional uses, this use is subject to revocation, and any permit for the extraction of water may be renewable, but no original or renewal permit shall be valid respectively for more than five (5) years.

5. Sand/Gravel/Clay Pits and Quarries: The following additional terms and conditions shall apply to conditional use permits granted to sand pits, gravel pits, clay pits, and/or quarries:

A. There shall be erected a fence of not less than six (6) feet in height around the entire periphery of the excavation. Fences shall be adequate to reasonably prevent trespass, and shall be placed on level terrain no closer than fifty (50) feet to the top edge of any slope.

B. All areas within any single excavation project shall be rehabilitated progressively, as the areas are worked out or abandoned, to a condition of being entirely lacking in hazards, inconspicuous, and blended with the general surrounding ground form so as to appear reasonably natural. Gravel and sand pits, and quarries shall be completely and continually drained of water when not

in use or not supervised by a watchman. All slopes and banks shall be reasonably graded and treated to prevent erosion or any other potential deterioration.

C. Traffic routes for truck movement in and out of the development shall be established in order to minimize the wear on public streets and to prevent hazards and damage to properties in the community and interior roadways shall be chemically treated to reduce dust.

D. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to persons, property, or to the community in general.

E. The operator or operators of such use shall file with the Township a detailed plan for the restoration of the development area which shall include the anticipated future use of the restored land; the proposed final topography indicated by contour lines of no greater interval than five (5) feet; steps which shall be taken to conserve topsoil; the type and number per acre of trees or shrubs to be planted; and the location of future roads, drives, drainage course, and/or other improvements contemplated.

F. The operator or operators shall file with the Township Clerk a bond, payable to the Township and conditioned on the faithful performance of all requirements contained in the approved restoration plan. The rate, per acre of property to be used, of the required bond shall be fixed by the Township Board. The bond shall be released upon written certification of the Building Inspector that the restoration is complete and in compliance with the restoration plan.

6. Additional Development Requirements for Development of Natural Resources.

A. Setback: Excavation, washing, and stockpiling of extracted material shall not be conducted closer than fifty (50) feet to the outer boundary of any lot line. The setback area shall not be used for any use in conjunction with a natural resources operation, except access roads or public notice signs identifying occupation. Greenbelt plantings and landscaping shall be provided in the setback area as required by the Township. Said setback may be increased where one (1) boundary of the lot abuts a body of water, in order to prevent surface water run-off with sedimentation and other possible sources of pollution to the water body.

B. Building Line for Operation Structures: To reduce the effect of airborne dust, dirt and noise, all equipment for sorting, crushing, loading, weighing, and other operations and structures shall not take place or be built closer than three hundred (300) feet from any public street right-of-way or from any adjoining residentially zoned district.

C. Frontage and Access: Each lot for extraction uses shall have a minimum frontage on a public highway of at least two hundred fifty (250) feet, except that the Township Board may approve an extraction operation, where the lot has no frontage, if written permission for access to a public highway is first secured.

D. Fencing: Any excavation operation which results in, or produces for a period of one (1) month, collections of water, or slopes as described below shall be subject to the following safety requirements:

(1) Where slopes steeper than thirty (30) degrees exist for a period of one (1) month or more, access to such slopes shall be barred by a cyclone fence or similarly effective barrier at least six (6) feet high; at least fifty (50) feet outside the edge of the excavation, with suitable gates controlling access to the excavation area.

(2) Where collections of water are one (1) foot or more in depth for any period of at least one (1) month, and occupying an area of two hundred (200) square feet or more, access to such collections shall be fenced.

E. Access Roads: All private access roads shall be treated so as to create a dust-free surface for a distance of three hundred (300) feet from any public access road.

F. Slopes: Finished slopes of the banks of the excavation shall in no event exceed a minimum of five (5) feet horizontal to one (1) foot vertical. Where ponded water results from the operations, this slope must be maintained and extended into the water to a depth of five (5) feet. Said slopes shall be met as the work in any one (1) section of the excavation proceeds, and the time for completion of said slopes shall not extend beyond one (1) year's time from the date of beginning, provided that the Township Board may extend the above one (1) year period to such longer period as is satisfactory under the circumstances. Sufficient topsoil shall be stockpiled on the site so that the entire area shall be recovered with a minimum of six (6) inches of topsoil, and that such replacement of topsoil shall be made immediately following the termination of excavating operations. So as to prevent erosion of slopes, all replaced topsoil shall immediately be planted with grass or other plant material acceptable to the Township.

G. Reclamation: Each conditional use application shall contain a suitable plan for the reclamation and restoration of the lot upon which the permit is granted, upon the expiration and/or termination of the permit, if granted.

H. Explosives: Explosives shall be used in accordance with the "Regulations for Storage and Handling of Explosives", as published by the Michigan State Police, Fire Marshal Division, East Lansing, Michigan.

4.11 ADDITIONAL REQUIREMENTS FOR CAMPGROUNDS

1. A Conditional Use Permit is required for the operation of a campground.

2. Conditions:

A. The minimum size of a campground shall be twenty (20) acres.

B. Outdoor fire facilities shall be constructed for each site and open fires shall be prohibited except in these areas.

3. Site Use Arrangement:

A. A site in a campground, unless designated on an approved plan as a walk-in site, shall abut on a drive, and shall be of such a size and so arranged as to provide for a recreational unit and shall have at least fifteen (15) feet of drive frontage width and twelve hundred (1200) square feet of area for each camping site.

B. A drive shall be provided having a minimum width of twenty (20) feet. This drive shall be free of obstruction to provide free and easy access to abutting sites. The traveled portion of the right-of-way shall be maintained in a passable and dust free condition when the campground is in operation.

4. Campground uses are allowable as conditional uses; miscellaneous requirements:

A. Public and private parks and recreational areas of at least twenty (20) acres in area, including picnic areas and/or picnic pavilions; softball and baseball diamonds; swimming, boating, and ice sports facilities; amusement and other outdoor recreational sports activities; camping sites for tents, campers, and travel trailers not exceeding thirty five (35) feet in length.

B. All camping sites for tents, campers, and travel trailers shall have a central water supply system with potable water under pressure piped to within three hundred (300) feet of each site.

C. An enclosed toilet and sewage facility, approved by the Michigan State or County Health Departments, with hot and cold running water available therein, shall be provided for every trailer, tent, or campsite, not further than five hundred (500) feet from every site. If public sewer shall be available within five hundred

(500) feet of any portion of the land, the park system shall be connected thereto. No vehicle, tent, camper, or travel trailer shall be allowed within the campground except on an approved camp site.

D. No trailer, tent, camper, or building, other than a single family residence, shall be placed, parked, or erected within one hundred (100) feet of any lot line.

E. All campfire areas, firepits, grills, or fireplaces designed for cookouts or campfires shall be inspected by the local Fire Official and must meet all applicable safety standards.

4.12 ADDITIONAL REQUIREMENTS FOR ESSENTIAL SERVICES AND RELATED BUILDINGS

1. In every zoning district where allowed, essential service buildings shall be required to obtain a conditional use permit prior to their construction; (including) high voltage transmission towers, transformer substation, pumping stations, communications relay stations, gas and steam regulating valves and stations and buildings of similar function.

2. No such building shall be used for residential purposes.

3. An appropriate opaque fence or greenbelt may be required.

4.13 ADDITIONAL REQUIREMENTS FOR MULTIPLE FAMILY DWELLINGS

All such structures shall conform to the following regulations.

1. Height limitations of no more than two (2) stories.

2. Not be located within one thousand (1000) feet of any already established industrial use that may be offensive to residents of the multi-family development with light, noise, fumes, or odors.

3. Parking spaces provided as required by this Ordinance.

4. Lot area: Minimum for R-1, plus 10,000 square feet for each dwelling unit in excess of four (4) on the lot.

Every lot on which a multiple dwelling structure is erected shall be provided with a twenty (20) foot side yard on each side of such lot. Each side yard shall be increased by one (1) foot of each ten (10) feet or part thereof by which the length of the multiple dwelling structure exceeds forty (40) feet in over-all dimension, along the adjoining lot line. In order to preserve the general open character of

the districts, structures shall be limited in length to one hundred twenty five (125) feet. Rear yards and spacing between buildings shall be provided on the following basis: 1 and 2 floor structures - 45 feet between buildings and 35 foot rear yards.

5. On-site sewage disposal system including dry wells and/or drain fields shall be located a minimum of seventy five (75) feet from any lot line.

6. Minimum Interior Living Space; The minimum square feet of interior living space, exclusive of any area contained within attached garages, porches, balconies or common hallways, required for each family are specified in the following schedule:

A. Duplex dwellings: eight hundred (800) square feet of floor area at ground level per family for single story dwellings, and four hundred fifty (450) square feet of floor area at ground level per family dwellings over one (1) story in height provided that the total are shall not be less than six hundred (600) square feet per family.

B. Multiple family dwellings:

No. of bedrooms	Total Living Area /Unit
Studio Apartment	450 square feet
1	550 square feet
2	700 square feet
3	850 square feet
4	1000 square feet

4.14 ADDITIONAL REQUIREMENTS FOR COUNTRY CLUBS, GOLF COURSES, RIDING STABLES, AND ATHLETIC GROUNDS AND PARKS, INCLUDING RELATED USES, SUCH AS SNACK BARS, SMALL RETAIL SHOPS SELLING FOODS DIRECTLY RELATED TO THE PRIMARY USE, AND OTHER SIMILAR USES INTEGRAL TO THE MAIN USE

1. The use shall be located on property with direct access to a public street.

2. Any outdoor activity areas shall be set back a minimum of fifty (50) feet from any Residential Zoning District or use.

3. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any Residential District or use.

4. Access driveways shall be located not less than fifty (50) feet from the nearest part of the intersection of any street or driveway.

5. Buildings housing animals, storage equipment or other similar buildings shall be located at least fifty (50) feet from any lot line.

6. Minimum lot size shall be not less than ten (10) acres, provided, however, the Township Board may permit a lot size reduction, not to exceed five (5) acres, upon demonstration by the applicant that the proposed use will not result in a negative impact to adjacent properties.

4.15 ADDITIONAL REQUIREMENTS FOR COMMERCIAL GREENHOUSES AND NURSERIES, WHEN OPERATED PRIMARILY AS WHOLESALING OPERATIONS AND LIMITED RETAIL SALES

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

2. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or driveway.

3. Lighting for parking and outdoor storage area shall be shielded to prevent light from shining directly onto any Residential District or use property line.

4. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.

5. Minimum lot size shall be no less than five (5) acres.

4.16 ADDITIONAL REQUIREMENTS FOR GROUP AND COMMERCIAL CHILD DAY CARE HOMES AND FACILITIES

1. A drop off/pick up area shall be provided for motorists off the public street, which permits vehicles to exit the property without backing into the street.

2. Fencing no less than four (4) feet nor more than six (6) feet in height shall be provided around all outdoor areas accessible to children.

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

4.17 ADDITIONAL REQUIREMENTS FOR FUNERAL HOMES AND MORTUARY ESTABLISHMENTS

1. Lighting for parking areas and outdoor activity areas shall be shielded to prevent light from shining directly onto any Residential District or use.
2. Minimum lot area shall be no less than one (1) acre and minimum lot width shall be no less than one hundred fifty (150) feet.
3. An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.
4. No waiting lines of vehicles shall extend off-site or onto any public street.
5. Access driveways shall be located not less than twenty five (25) feet from the nearest part of the intersection of any street or any other driveway.

4.18 ADDITIONAL REQUIREMENTS FOR HOTELS AND MOTELS

1. Minimum lot area shall be no less than four (4) acres and minimum lot width shall be no less than two hundred (200) feet.
2. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
3. Access driveways shall be located not less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.

4.19 ADDITIONAL REQUIREMENTS FOR THEATERS, OR SIMILAR PLACES OF PUBLIC ASSEMBLY

1. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from shining directly onto any Residential District or use.
2. Main buildings shall be set back a minimum of one hundred (100) feet from any residential lot line.
3. For uses exceeding a seating capacity of two hundred fifty (250) persons, a traffic impact study shall be required to be submitted by the applicant which describes internal circulation and projected impacts on traffic operations, capacity, and access on adjacent and nearby streets which are likely to provide access to the site.

4. Access driveways shall be located not less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.

5. Minimum lot area shall be no less than five (5) acres.

4.20 ADDITIONAL REQUIREMENTS FOR RESTAURANTS WITH DRIVE-THROUGH FACILITIES

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public street. A minimum of ten (10) stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and ingress and egress from the property by vehicles not using the drive-through portion of the facility.

2. In addition to parking space requirements, at least three (3) parking spaces shall be provided, in close proximity of the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.

3. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.

4. Access driveways shall be located no less than twenty five (25) feet from the nearest part of the intersection of any street or any other driveway.

4.21 ADDITIONAL REQUIREMENTS FOR VEHICLE WASH ESTABLISHMENTS, EITHER SELF-SERVE OR AUTOMATIC

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public street. A reasonable number of stacking spaces for an automatic wash facility shall be provided. For self-service establishments, each stall shall have at least two (2) stacking spaces at the entrance and one (1) space at the exit.

2. Vacuuming activities, if outdoors, shall be at least one hundred (100) feet from any Residential Zoning District or use lot line. Wash bays for self-service establishments shall be located at least fifty (50) feet from any Residential Zoning District or use lot line.

3. Should self-service wash bays be located with openings parallel to an adjacent street, they shall be screened by a solid wall or fence, six (6) feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.

4. Only one (1) access driveway shall be permitted on any single street. All access driveways shall be located on less than twenty five (25) feet from the nearest part of the intersection of any street or driveway.

5. Where adjoining residentially zoned or used lots, a solid wall or fence, six (6) feet in height shall be erected along any common lot line. Such fence shall be continuously maintained in good condition.

6. Lighting for parking and outdoor storage areas shall be shielded to prevent light from shining directly onto any Residential Zoning District or use property line.

4.22 ADDITIONAL REQUIREMENTS FOR OPEN AIR BUSINESSES

The following provisions apply to all open air businesses, but shall not apply to farm markets, as otherwise allowed by this Ordinance.

1. A five (5) foot fence or wall shall be constructed along the rear and sides of the lot, capable of keeping trash, paper, and other debris from blowing off the premises.

2. The lot area used for parking, display, or storage shall be provided with a permanent, durable and dustless surface, and shall be graded and drained so as to dispose of all surface water.

3. Access driveways shall be located not less than fifty (50) feet from the nearest part of the intersection of any street or driveway.

4. Lighting for parking and outdoor storage areas shall be shielded to prevent light from shining directly onto any Residential District or use property line.

5. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.

4.23 ADDITIONAL REQUIREMENTS FOR BOWLING ALLEYS

1. The principal and accessory buildings and structures shall be located no closer than one hundred (100) feet from any residential District or use lot line.

2. Minimum lot area shall be one (1) acre and minimum lot width shall be one hundred fifty (150) feet.

3. Access driveways shall be located not less than fifty (50) feet from the nearest part of the intersection of any street or driveway.

4.24 ADDITIONAL REQUIREMENTS FOR COMMERCIAL GARAGES

1. The principal and accessory buildings and structures shall not be located within one hundred (100) feet of any Residential Zoning District or use lot line.
2. Minimum lot area shall be not less than one (1) acre and minimum lot width shall be one hundred fifty (150) feet.
3. All equipment and activities associated with vehicle repair operations, except those in incidental use, such as air hoses, shall be kept within an enclosed building.
4. Inoperative vehicles left on the site shall, within fourteen (14) days, be stored within an enclosed building, or in an area screened by an opaque fence not less than six (6) feet in height and not greater than ten (10) feet in height. Such fence shall be continuously maintained in good condition.
5. Storage of vehicle components and parts, trash, supplies, or equipment outside of a building is prohibited.
6. Access driveways shall be located not less than twenty (25) feet from the nearest part of the intersection of any street or driveway.
7. Where adjoining residentially zoned or used property, a solid wall or fence, six (6) feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.

4.25 ADDITIONAL REQUIREMENTS FOR LUMBER AND PLANING MILLS AND SAWMILLS

1. The principal and accessory buildings and structures shall not be located within two hundred (200) feet of any Residential Zoning District or use lot line.
2. Minimum lot area shall be not less than ten (10) acres with a minimum width of no less than three hundred thirty (330) feet.
3. Storage of timber, saw logs, saw dust, wood chips, partial and finished wood products, and other such materials shall not be stored within one hundred (100) feet of the front lot line.
4. Adequate emergency vehicle access shall be maintained to all portions of the operation.

5. Landscaping and/or fencing shall be provided as required by the Township Board.

4.26 ADDITIONAL REQUIREMENTS FOR METAL PLATING, BUFFING AND POLISHING

1. The principal and accessory buildings and structures shall not be located within two hundred (200) feet of any Residential District or use lot line.

2. In addition to the site plan, the applicant shall provide design detail on the method for the collection and disposal of liquid and solid waste by-products. The Township Board may require that engineering plans, sealed by a Professional Engineer registered in the State of Michigan, be provided pursuant to disposal methods which may pose a potential threat to the ground water.

3. The applicant shall secure all necessary permits from Township, County, and State authorities.

4. Minimum lot area shall be not less than five (5) acres.

4.27 ADDITIONAL REQUIREMENTS RE: COMMERCIAL STORAGE WAREHOUSES

1. Minimum lot area shall be not less than two (2) acres.

2. A residence may be permitted on the premises for security personnel or on-site operator. The residence shall conform to the minimum requirements for a single family detached dwelling.

3. Parking and circulation:

A. One parking space shall be provided for each ten (10) storage cubicles, equally distributed throughout the storage area. The parking requirement may be met with the parking lanes required for the storage area.

B. Two (2) parking spaces shall also be required for the residence of security personnel or on-site operator employed on the premises.

C. One (1) parking space shall also be required for every twenty (20) storage cubicles, up to a maximum of ten (10) spaces, to be located adjacent the rental office, for the use of customers.

D. The following parking lanes and access aisles shall be required. The parking lanes may be eliminated when the access aisle does not serve storage cubicles.

Lane/Aisle	Aisle/Lane Width (ft)		#Lanes/Aisle Required	
	One-Way	Two-Way (each lane or aisle)	One-Way	Two-Way
Parking Lane	10	10	1	1
Access Aisle	15	10	1	1

E. All driveways, parking, loading, storage, and vehicular circulation areas shall be paved.

4.28 ADDITIONAL REQUIREMENTS FOR THE MANUFACTURE, COMPOUNDING, PROCESSING, PACKAGING, OR TREATMENT OF PRODUCTS REQUIRING STAMPING OR PUNCH PRESS OPERATIONS

1. The principal and accessory buildings and structures shall not be located within two hundred (200) feet of any Residential Zoning District or use property line.
2. Minimum lot area shall be not less than five (5) acres.

4.29 ADDITIONAL REQUIREMENTS FOR JUNK YARDS/SALVAGE YARDS

1. Requests for a conditional use permit for a salvage or junk yard shall also require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and/or recycling, and ultimate destination of all salvaged, recycled, and waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.
2. The lot shall be provided with suitable access to ensure safe, direct transport of salvage to and from the lot.
3. No portion of the storage area shall be located within three hundred (300) feet of any Residential Zoning District or use lot line.
4. Any outdoor storage area shall be completely enclosed by a fence or wall at least six (6) feet in height and no greater than ten (10) feet in height, constructed of a sturdy, durable material and sufficiently opaque to ensure that the material is not visible from outside the storage area. The fence or wall shall have a minimum of two (2) nontransparent gates not exceeding forty eight (48) feet in width providing access to the storage area for vehicles but shall not allow

direct view of the storage area from adjacent properties or streets. Said fence or wall shall be continuously maintained in good condition and shall contain only approved signs.

5. Stored materials shall not be stacked higher than ten (10) feet and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way. In no case shall salvage or junk be stored at a height exceeding the height of the storage area fence or wall.

6. The fence or wall enclosing the storage area shall meet the applicable building setback requirements.

7. A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator.

8. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.

9. All portions of the storage area shall be accessible to emergency vehicles.

10. Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty (20) foot continuous loop drives separating each row of vehicles.

11. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company and be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method, or otherwise allowed to be discharged upon the ground.

12. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.

13. All fences shall be setback a minimum of fifty (50) feet from any Residential District or use property line.

14. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight hours.

15. The Township Board may impose other conditions, such as greenbelts, landscaping, and other items, which have a reasonable relationship to the health, safety, and general welfare of the Township.

4.30 ADDITIONAL REQUIREMENTS FOR HOME OCCUPATIONS

Home Occupations shall comply with the following regulations:

1. Are only conducted by the person or persons occupying the premises as their principal residence; provided, however, the Township Board shall have the authority to permit additional subordinate assistants who do not so reside within said dwelling where the same would not materially impair the residential character of the neighborhood or cause traffic congestion or parking problems. In no event, however, shall such additional assistants exceed three (3) in number.

2. The dwelling has no exterior evidence, other than a permitted sign, to indicate that the same is being utilized for any purpose other than that of a dwelling.

3. The occupation conducted therein is clearly incidental and subordinate to the principal use of the premises for residential purposes.

4. No goods are sold from the premises which are not strictly incidental to the principal home occupation conducted therein.

5. No occupation shall be conducted upon or from the premises which would utilize heavy equipment or constitute a nuisance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, vibration, night lighting, or the creation of unreasonable traffic to the premises.

6. The Township Board shall have authority and duty to determine whether or not a proposed home occupation complies with the Zoning Ordinance and is within the spirit of the same to ensure the compatibility of any use with the character of the zoning district in which the same is located and that the health, safety, and general welfare of the neighborhood will not thereby be impaired.

7. A home occupation is subject to the termination provisions of Section 4.06 of this Ordinance.

4.31 KEYHOLE ACCESS

4.31 The term "keyhole access" as referenced in this section is a practice of allowing access or utilization of a lakefront lot by one or more non-lakefront owners by designating the lakefront lot as an "access lot", "common area", "common element", "limited common element", "mutual easement area", or other arrangement which has the effect of granting non-lakefront lots legal rights of access to and/or use of a lakefront lot, for activities typically associated with lakefront lots, including but not limited to: constructing or maintenance of a dock, mooring of a boat at a dock or by swimming, sunbathing, and picnicking.

Keyhole access over a lakefront lot shall be allowed only as a conditional use, approved as authorized by this ordinance. Further, any lakefront lot intended for use as a keyhole access shall satisfy the following conditions:

1. Any lakefront lot serving as a keyhole access shall meet the minimum lot size (including area, lot front, lot rear, and lot sideline requirements) for the zoning district in which it is located.

2. Lakefront lots used for keyhole access shall be owned by a legal entity which is registered with the State of Michigan as a non-profit corporation.

3. Owners of lots having the legal right to keyhole access over a lakefront lot shall be located in a common development all of which lots shall be south of Old Channel Trail and contiguous with each other and the keyhole access lot. Further, only the owners of such lots may become members of the legal entity which owns the keyhole access lot.

4. The keyhole access lot shall have a minimum of 25 feet of frontage, measured along the high water mark, for each non-lakefront lot having keyhole access over the lakefront lot.

5. This provision shall be deemed applicable to any planned unit development or other special land use projects and/or developments.

(Amended May 2004.)

4.32 WIND TURBINE GENERATORS

1. Purpose: The purpose of this Section is to establish standards and procedures by which the installation and operation of a Wind Turbine Generator shall be governed within the Township as a Conditional Use.

2. Definitions:

A. Anemometer Tower: A structure and equipment used to determine the potential for the placement of a Wind Turbine Generator.

B. Applicant: The person, firm, corporation, company, limited liability corporation or other entity which applies for Township approval under this section, as well as the applicant's successor(s), assign(s) and/or transferee(s) as to any approved Wind Turbine Generator or Anemometer Tower. An applicant shall have the legal authority to represent and bind the landowner and lessee who will construct, own, and operate the Wind Turbine Generator or Anemometer Tower. The duties and obligations regarding a zoning approval for any approved Wind Turbine Generator or Anemometer Tower shall be with the owner of the Wind Turbine Generator or Anemometer Tower, and jointly and

severally with the owner and operator or lessee of the Wind Turbine Generator or Anemometer Tower if different than the owner.

C. Dimensions: All communications, discussions, applications, specifications, site plans, or any other matters relating to Wind Turbine Generator shall include the English standard of measurement to expedite comprehension of the proposed data.

D. Interconnected Wind Turbine Generator: A Wind Turbine Generator that is electrically connected to the local electrical power utility system and could feed power back into the local electrical power utility system.

E. Single Wind Turbine Generator for Commercial Purposes: A single Wind Turbine Generator placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the structure is located. Said Wind Turbine Generator may or may not be owned by the owner of the property upon which the Wind Turbine Generator is placed.

F. SCADA Tower: A free-standing tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition system (SCADA).

G. Wind Farm: Clusters of 2 or more Wind Turbine Generators placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the Wind Turbine Generators are located. Said Wind Turbine Generators may or may not be owned by the owner of the property upon which the Wind Turbine Generators are placed.

H. Wind Turbine Generator(s) (WTG): Shall mean a combination of:

- (i) A surface area (typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical powers; and
- (ii) A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and
- (iii) The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
- (iv) The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.
- (v) Other devices, structures, and components of other devices and structures not listed above but that are associated with the normal operation of a device or structure designed or intended to convert wind energy into mechanical and/or electrical energy.

I. Wind Turbine Generator Height: The distance between the ground (at normal grade) and the highest point of the Wind Turbine Generator (being the tip of the blade, when the blade is in the full vertical position).

3. Applicability:

A. Wind Turbine Generator, Wind Farms, Single Wind Turbine Generator for Commercial Purposes, and Anemometer Tower: Wind Turbine Generator, wind farm, single Wind Turbine Generator for commercial purposes, and Anemometer Tower associated with the commercial application of a Wind Turbine Generator may be allowed as a Conditional Use only in the AG-Agriculture zoning district, subject to the regulations and requirements of this section and the review procedures and standards/criteria of this Zoning Ordinance.

B. Single Wind Turbine Generator (SWTG) for On-site Service Only: Single Wind Turbine Generator applications of wind energy conversion system to service the energy needs of only the property on which the structure is located may be approved in any zoning district as a Conditional Use, provided the property upon which the system is to be located is at least three and one-half (3-1/2) acres in size and subject to the review and approval procedures and standards/criteria of this Ordinance, as well as all of the following:

(i) The height of the overall single Wind Turbine Generator (with the blade in the vertical position) shall not exceed one hundred fifty (150) feet above ground level (at normal grade).

(ii) The distance of the structure from all property lines shall be at least a distance equal to the SWTG height. The distance from all dwellings shall be at least equal to the SWTG height plus twenty (20) feet.

4. All applications for a Commercial Wind Turbine Generator Conditional Use Permit shall be accompanied by a detailed site plan drawn to scale and dimensioned, displaying all of the following information:

A. Certification by a registered surveyor licensed in the State of Michigan

B. All lot lines and dimensions, including a legal description.

C. The applicant shall provide accurate detailed daytime photographic simulations showing the site fully developed with all proposed Wind Turbine Generators and accessory structures. The scenes shall show all new above ground transmission poles, lines, transmission stations and distributions stations. These simulations should depict a cloudless, clear, sunny day. Photo simulation

of wind turbines shall be taken from high ground so the bases of the turbines are visible.

D. The location of each proposed Wind Turbine Generator shall be marked by with a precise GPS location.

E. Locations and heights of all forests, wood lots, trees and fence row trees that would be disturbed by the construction process

F. Locations and height of all adjacent buildings, structures, and above ground utilities located within three hundred (300) feet of the exterior boundaries of the lot where the proposed Wind Turbine Generator will be located. Specific distances to other on-site buildings, structures, and utilities shall also be provided. The location of all existing and proposed overhead and underground electrical transmission or distribution lines shall be shown, whether to be utilized or not with the Wind Turbine Generator located on the lot or parcel involved, as well as within one thousand (1,000) feet of the boundaries of such parcel or lot.

G. Existing and proposed setbacks for the Wind Turbine Generator from all structures located on the property where the Wind Turbine Generator will be located.

H. Elevation of the premises accurately depicting the proposed Wind Turbine Generator location and its relationship to the elevation of all existing structures within six hundred (600) feet of the proposed Wind Turbine Generator.

I. Access driveway to the Wind Turbine Generator together with a detailed narrative regarding dimensions, composition, and maintenance of the proposed driveway. The Township shall require the construction of a private road to serve a Wind Turbine Generator if it is determined by the Township Board that said road is necessary to protect the public health, safety, or welfare or to offer an adequate means by which the Township or other governmental agency may readily access the site in the event of an emergency. All private roads shall be constructed in a manner that will cause the minimum interference with future farming activities. All private roads serving the Wind Turbine Generator shall be located in a manner that will require the least total area of land.

J. Planned security measures to prevent unauthorized trespass and access.

5. Wind Turbine Generator Maintenance Programs: The applicant shall provide to the Township a written description of the maintenance program to be used to maintain the Wind Turbine Generator, including removal when determined to be obsolete or abandoned. The description shall include

maintenance schedules, the types of maintenance to be performed, and removal procedures and schedules should the Wind Turbine Generator become obsolete or abandoned.

6. Additional detail(s) and information as required by the Conditional Use requirements of this Ordinance, or as requested by the Planning Commission or Township Board.

7. All applications for an Anemometer Tower Conditional Use permit shall be accompanied by a detailed site plan drawn to scale and dimensioned, displaying all of the following information:

A. Certification by a registered surveyor licensed in the State of Michigan.

B. All lot lines and dimensions, including a legal description.

C. The location of each proposed Anemometer Tower shall be marked with a precise GPS location.

D. Additional detail(s) and information as required by the Conditional Use requirements of this Ordinance, or as requested by the Planning Commission or Township Board.

8. Compliance with the Township Building Code: A copy of the manufacturer's installation instructions and blueprints shall be provided to the Township. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the Wind Turbine Generator and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Building Code as adopted by the Township. A registered engineer licensed in the State of Michigan shall certify drawings and engineering calculations.

9. Compliance with the Electrical Code: Wind Turbine Generator and Anemometer Tower electrical equipment and connections shall be designed and installed in full compliance with the Electrical Code as adopted by the Township. A copy of manufacturer installation instructions and blueprints shall be provided to the Township.

10. Sufficient Wind Resources: No Wind Turbine Generator shall be approved without submission of documented measurements taken for 730 consecutive days (2 years) at each Anemometer Tower. Said study shall indicate the long-term commercial economic viability of the project. The Township shall select and retain the services of an independent, recognized expert to review and interpret the results of the wind resource raw data (at

applicant's expense) prior to acting on the application for a Conditional Use permit.

11. Design Standards:

A. Height: The permitted maximum total height of a Wind Turbine Generator (i.e., Wind Turbine Generator height) shall be Four hundred ten (410) feet including the blade in vertical position.

(i) State and federal regulations may require a lesser height.

(ii) The entire foundation or base of each Wind Turbine Generator and all buried transmission lines shall be covered with soil to a minimum depth of four (4) feet from the pre-existing grade.

(iii) As a condition of approval, the Township may require a lesser height for a Wind Turbine Generator.

(iv) A Wind Turbine Generator shall be constructed with a tubular tower, not a lattice tower.

B. Anemometer Tower:

(i) Unless the Township Board approves a different height, the Anemometer Tower height shall be no greater than two hundred (200) feet from the ground (i.e., from normal grade to the test tower top) and shall comply with design standards.

(ii) Setback from dwellings shall be at least equal to the height of the Anemometer Tower plus fifty (50) feet. Setback from public roads shall at least equal to the height of the Anemometer Tower plus fifty (50) feet from the public right of way boundary.

(iii) The setback of an Anemometer Tower from the nearest property line shall be no less than the height of the Anemometer Tower.

(iv) An Anemometer Tower which is not in use for 6 months or more shall comply with the subsection regarding abandonment

C. Wind Turbine Generator Setbacks:

(i) The distance for placement of a Wind Turbine Generator shall be at least one thousand (1000) feet from the nearest dwelling.

(ii) The setback of the Wind Turbine Generator from the nearest property line shall be no less than one thousand two hundred (1200) feet. An exception to this requirement shall be allowed upon the satisfaction of all of the following conditions.

a. In addition to ownership of the lot upon which the Wind Turbine Generator is proposed to be located, the applicant also owns all other lots within the one thousand two hundred (1200) foot setback distance; or, in addition to the lease of the lot upon which the Wind Turbine Generator is proposed to be located, the Applicant also owns or has leased all other lots within the one thousand two hundred (1200) foot setback distance, provided that if lease of a lot is utilized, than all leases of other lots shall have a term of not less than the term of the lease for the lot upon which the Wind Turbine Generator is proposed to be located.

b. Copies of the lease(s) and/or deed(s), either recorded or in recordable form, and containing such provisions as the Township shall reasonable require, are presented to the Township, along with such verification of title of the landlords/grantors as the Township shall require, in order to insure that a lease(s) and/or deed(s) have been executed by the appropriate person(s) or entity.

(iii) The Wind Turbine Generator shall be no closer than the height of the Wind Turbine Generator plus fifty (50) feet from the right of way boundary of any public road.

(iv) The setback between wind turbine generators shall be no less than five (5) blade or rotor diameters.

D. Rotor or Blade Clearance: The minimum blade or rotor clearance above ground level shall be at least fifty (50) feet.

E. Rotor or Blade Safety: Each Wind Turbine Generator shall be equipped with both a manual and automatic braking device capable of stopping the Wind Turbine Generator operation in high winds (within 80% of design limits of the rotor) and when harmful icing occurs.

F. Protection of Forests, Woodlots, Trees and Fence row Trees: Forests, woodlots, or trees in fencerows shall not be cleared in order to enhance wind quality.

G. Hazardous Materials: The following shall be submitted with the application for a Conditional Use permit for a Wind Turbine Generator:

- (i) A listing of any hazardous fluids that may be used on site shall be provided.
- (ii) Certification that the turbine has been designed to contain any hazardous fluids shall be provided.
- (iii) A statement certifying that the turbine shall be routinely inspected to ensure that no fluids are released from the turbine.
- (iv) A hazardous Materials Waste Plan shall be provided.

H. Signs: Each Wind Turbine Generator shall have one sign, not to exceed two (2) square feet in area, posted at the base of the tower. The sign shall contain at least the following:

- (i) Warning high voltage.
- (ii) Manufacturer's name.
- (iii) Emergency numbers (list more than one number).
- (iv) Emergency shutdown procedures.
- (v) FAA regulated sign with precise description with latitude and longitude and shall also contain both the applicant's current telephone number and the current telephone number for the FAA's regional office having jurisdiction over Montague Township. The sign shall also contain the emergency telephone number that will allow a caller to contact a responsible individual to address emergencies at any time during or after regular business hours, on weekends or holidays. If fenced, place signs on the fence.
- (vi) This information shall also be on record with local governmental units.
- (vii) Suggest placement of a descriptive sign (No greater than 32 Square feet) at a road side turnout somewhere within the viewshed.

I. Lighting: The Planning Commission shall approve a lighting plan for each Wind Turbine Generator and Testing Facilities. Such plan shall describe all lighting that will be utilized, including any lighting that may be required by the FAA. Such a plan shall include but is not limited to the planned number and location of lights, light color and whether any lights will be flashing.

(i) Each Wind Turbine Generator or anemometer tower shall not be artificially lighted, unless required by the FAA or other applicable governmental authority. If lighting is required, the lighting alternatives and design chosen shall be the minimum amount and the lowest intensity allowable under FAA regulation.

(ii) Light type shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by the FAA. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to the FAA.

(iii) Strobe lights are discouraged and shall be shielded from the ground if the FAA requires such lights.

(iv) All tower lighting required by the FAA shall be shielded to the extent possible and acceptable to the FAA to eliminate glare and visibility from the ground.

(v) No light shall shine up on the tower from the ground level (up lighting). The Nacelle shall be lit only by the minimum warning lights required by the FAA.

(vi) Utility and maintenance buildings shall be lit only when personnel are present and performing necessary maintenance. No dusk to dawn lighting shall be allowed. Fencing shall not be lit.

(vii) Measures shall be taken to prevent night time accidents from snowmobiles, motorcycles, and any recreational vehicles. Safety reflectors shall be attached around the base of all Wind Turbine Generators, to any surrounding fencing, and to all guy wires for utility poles and Anemometer Towers.

J. Electromagnetic Interference: Each Wind Turbine Generator and Testing Facilities shall be designed, constructed and operated so as not to cause any interference with television, microwave transmission and reception, navigational, or radio reception to neighboring areas. In the event that electromagnetic interference is experienced, the applicant shall provide alternate service to each individual resident or property owner affected within thirty (30) days. The replacement service shall be acceptable to the injured party. The replacement service shall be equal or superior to the previous service that was interrupted. Any additional cost of construction, equipment, maintenance or increased subscription charges shall continue to be paid permanently by the Wind Turbine Generator owners/operators until such time that the offending Wind Turbine Generator is removed.

K. Noise Emissions: The noise level measured at the property lines shall not exceed forty-five (45) decibels. In addition there shall be no obnoxious noise, even if an intermittent nature such as that characterized by either high or low frequency, even though it is less than forty-five (45) decibels. The Planning Commission reserves the right to retain the forty-five (45) decibel limitation or to waive or change the noise requirements for those properties that have been granted an exception to the twelve-hundred (1,200) foot setback from the property line requirement.

(i) A description and map of the project's noise producing features, including the range and type of noise levels expected, the amount and distance of low frequency noise impact and the basis for these calculations.

(ii) A description and map of the noise sensitive environment, including any sensitive noise receptors, for example, residences, libraries, schools, places of worship, parks, and other facilities where quiet is important or where noise could be a nuisance within one (1) mile of the proposed facility.

(iii) A survey and report prepared by a qualified engineer approved by the Planning Commission that analyzes the pre-existing ambient noise (including seasonal variation) and the affected sensitive receptors located within one (1) mile of the proposed project site. Potential sensitive receptors at relatively less windy or quieter location than the project should be emphasized and any problem areas identified.

(iv) The report to the Planning Commission will address the four types of noise that can be generated by wind turbine operations: tonal, broadband, low frequency and impulsive. In addition, the report will describe any negative impacts (within a two-mile radius) that the proposed turbine(s) will have on the general health and well being of residents.

(v) A description of the projects proposed noise control features and specific measures proposed to mitigate noise impacts for sensitive receptors as identified above to a level of insignificance.

L. Wind Turbine Generator Interconnection: All distribution lines from the Wind Turbine Generator to the electrical grid connection shall be located and maintained four (4) feet underground (both on the property where the Wind Turbine Generator will be located and off-site). All power distribution cables shall be three (3) conductors, shielded, and encased within a continuous armored jacket, and covered with a 6-inch sand barrier with 3-inches of concrete on top of the sand.

M. Construction may take place between the hours of 6 a.m. and 10 p.m.

N. Construction and maintenance materials shall be purchased locally whenever possible. (Muskegon-Oceana County)

12. Inspection: The Township shall have the right upon issuing any Wind Turbine Generator and Anemometer Tower Conditional Land Use Permit to inspect the premises on which the Wind Turbine Generator or Anemometer Tower is located at all reasonable times. The Township may hire a consultant to assist with any such inspections.

13. Each Wind Turbine Generator and Anemometer Tower shall be kept and maintained in good repair and condition at all times. If a Wind Turbine Generator is not maintained in operational and reasonable condition or poses a potential safety hazard, the applicant shall take expeditious action to correct the situation. The applicant shall keep a maintenance log on each Wind Turbine Generator, which the Township can review.

14. Abandonment: If any Wind Turbine Generator or Anemometer Tower is not in use for twelve (12) successive months, it shall be deemed to be abandoned and shall be promptly dismantled and removed from the property.

A. All foundation and all materials, structures, etc., associated with any wind Turbine Generator shall be removed to a minimum depth of four (4) feet below the final grade and the site soil shall be returned to its original condition with topsoil on top of subsoil. All underground utility cables shall be removed. Vegetation shall be restored.

B. All utility poles, above ground utility lines, transformers, substations and transmission stations shall be completely removed and the ground returned to its pre construction state.

C. All access roads and their base construction (sand, gravel) shall be completely removed and the site soil shall be returned to its original condition with topsoil on top of subsoil. Vegetation shall be restored.

D. All easements shall immediately become null and void.

15. Security Clause: If a Conditional Use is approved pursuant to this section, the Township Board shall require security in the form of a cash bond held by an independent third party, or irrevocable letter of credit (in a form, amount, time duration and with a financial institution deemed acceptable to the Township) which shall be furnished by the applicant to the Township in order to ensure full compliance with this section and any conditions of approval. When determining the amount of such required security, the Township shall also

require an annual escalator or increase based on the Federal Consumer Price index (or the equivalent or its successor). Such financial guarantee shall be deposited or filed with the Township Clerk after a Conditional Use Permit has been approved but before construction commences upon a Wind Turbine Generator. At a minimum, the financial security shall be in an amount determined by the Township to be sufficient to have the Wind Turbine Generator fully removed (and all components properly disposed of and the land returned to its original state) should such structure or structures become abandoned, dangerous or obsolete, or not in compliance with this ordinance or the Conditional Use Permit. Such financial security shall be kept in full force and effect during the entire time while a Wind Turbine Generator exists or is in place. Such financial security shall be irrevocable and non-cancelable, for the term of the Conditional Use. Failure to keep such financial security in full force and effect at all times while a Wind Turbine Generator exists or is in place shall constitute a material and significant violation of a Conditional Use Permit and this ordinance, and shall subject the applicant to all available remedies to the Township, including possible enforcement action and revocation of the Conditional Use Permit.

16. Escrow Account: An escrow account shall be set up when the applicant applies for a Conditional Use Permit for a Wind Turbine Generator. The monetary amount filed by the applicant with the township shall be in an amount estimated by the Township to cover all costs and expenses associated with the Conditional Use zoning review and approval process, which costs can include, but are not limited to, fees of the Township Attorney, and Township Engineer, as well as any reports or studies which the Township anticipates it may have done related to the zoning review process for the particular application. Such escrow amount shall be in addition to regularly established fees. At any point during the zoning review process, the Township may require that the applicant place additional monies into escrow with the Township should the existing escrow amount filed by the applicant prove insufficient. If the escrow account needs replenishing and the applicant refuses to do so promptly, the zoning review and approval process shall cease until and unless the applicant makes the required escrow deposit. Any applicable zoning escrow resolutions or other ordinances adopted by the Township shall also be applicable.

17. Road repair: Any damages to a public or private road, or field access driveway located within the Township resulting from the construction, maintenance, or operation of a Wind Turbine Generator or Anemometer Tower shall be repaired at the applicant's expense.

18. Liability: The applicant shall insure each Wind Turbine Generator at all times for at least \$3,000,000 for liability to cover the applicant, Township and landowner.

19. Color: A Wind Turbine Generator shall be painted a non-obtrusive (light environmental color such as beige or gray) color that is non-reflective. The wind turbine base and blades shall be of a color consistent with all other turbines in the area. No striping of color or advertisement shall be visible on the blades or tower.

20. Strobe effect: All efforts shall be made not to affect any resident with any shadow flicker.

21. Under no circumstances shall a Wind Turbine Generator or Anemometer Tower produce vibrations or wind currents humanly perceptible beyond the property boundaries of the lot or parcel on which the Wind Turbine Generator or Anemometer Tower is located.

22. The applicant shall be responsible to remedy problems and to compensate for damages caused by stray voltage. This shall include negative impacts to human beings and to livestock.

23. At the Township's request, the applicant shall fund an environmental assessment or impact study and/or other relevant report(s) or studies (including, but not limited to, assessing the potential impact on endangered species, eagles, birds, and/or other wildlife) as required by the Township for review by the Township regarding the area or surrounding areas where the Wind Turbine Generator will be placed. Each such study or report shall be provided to the Township one month prior to the time when the Planning Commission makes its formal recommendation regarding the Conditional Use request to the Township Board.

24. At the Township's request, the applicant shall fund a financial impact study for review by the Township of the area affected by the Wind Turbine Generator. The Township shall select the author of this study. Such study or report shall be provided to the Township one month prior to the time when the Planning Commission makes its formal recommendation regarding the Conditional Use request to the Township Board.

25. Reasonable conditions: In addition to the requirements of this section, the Township Board may impose additional reasonable conditions on the approval of a Wind Turbine Generator or Anemometer Tower as a Conditional Use.

26. Each Wind Turbine Generator and Anemometer Tower shall also comply with all applicable Federal, State of Michigan, and County requirements, in addition to Township ordinances.

Article I. Severability. Should a court of competent jurisdiction find any provision, clause, or portion of this ordinance/ordinance

amendment to be invalid, the balance or remainder of this ordinance/ordinance amendment shall remain valid and in full force and effect and shall be deemed “severable” from the portion, clause, or provision deemed to be invalid by the court.

(Amended August 2004.)

ARTICLE 5

NON-CONFORMING USES

The following regulations shall control lawful nonconforming uses of land and/or buildings and/or structures and non-conforming buildings and/or structures in existence at the time of passage of this Ordinance.

5.01 PRE-CODE NON-CONFORMING USES/EXTENSION PROHIBITED

Non-conforming lots, uses of land and/or buildings or structures which are lawfully in existence at the time of passage of this Ordinance may be continued but shall not be extended, altered or added to unless such extension, alterations or additions are in conformity with the provisions of this Ordinance.

5.02 REPAIRS

If the costs of repair or replacement of a non-conforming building or structure which has been destroyed exceeds sixty percent (60%) of the total replacement cost of the use or building, such building or structure shall not be rebuilt except in conformity with the provisions of this Ordinance.

5.03 ABANDONMENT

If the non-conforming use of land or of a building or structure, or if the use of a nonconforming building or structure, shall be abandoned for a continuous period of time exceeding one hundred eighty (180) consecutive days, such use shall not be re-established and any future use of the land and/or building or structure shall be in conformity with this Ordinance.

5.04 CHANGE OF USE

If a non-conforming use or building or structure is changed to a permitted or more restrictive use in the zoning district in which it is located, it shall not revert or be changed back to a non-conforming less restrictive use. If a nonconforming building or structure or a nonconforming use of a building or structure or land is changed or altered in any manner so as to bring it into compliance with the provisions of this Ordinance applicable to the zoning district in which it is located, such building or structure or use of building or structure or land shall not thereafter be changed back to a nonconforming use or building or structure.

5.05 EXCEPTION FOR SINGLE FAMILY DWELLINGS

Notwithstanding the foregoing, a single family dwelling located in a zone which does not permit the same may still be altered, expanded and/or rebuilt.

5.06 IMPROVEMENTS

Nothing in this Ordinance shall prohibit the improvement or modernizing of a lawful nonconforming building or structure provided that such improvement or modernizing does not increase the nonconformity of the height, area, bulk or use of such building or structure.

5.07 UNDERSIZED LOTS

If two (2) or more lots, one (1) or more of which does not comply with the area or lot line requirements of this Ordinance, become owned by the same person(s) or entity, the result of which is to create a combined parcel of land which complies with this Zoning Ordinance's lot area and lot line requirements, such lots shall not be returned to separate ownership except to the extent that the resulting separate parcels shall all comply with this Ordinance.

5.08 PRIOR CONSTRUCTION APPROVAL

When, on the effective date of this Ordinance or any amendment thereto, a building permit has been issued for the construction or erection of a nonconforming building or structure, such building or structure may be completed in accordance with the building permit and shall thereafter become a nonconforming building or structure provided that construction is commenced within ninety (90) days after the issuance of the building permit and that construction is carried on diligently and in accordance with the building permit and completed within two (2) years after the issuance of the building permit.

5.09 ZONING DISTRICT MAP CHANGES

Whenever the boundaries of a zoning district shall be changed by amendment to this Ordinance so as to transfer land from one (1) district to another of a different classification or having different regulations, lawful building and structure and lawful uses of buildings, structures, and lands existing on the effective date of such amendment shall become nonconforming buildings or structures or uses of buildings or structures or uses of land as a result of the boundary changes.

5.10 ELIMINATION OF ILLEGAL BUILDINGS AND USES

In accordance with Act 272 of the Public Acts of Michigan of 1947, as amended, the Township Board may acquire by condemnation or other means, properties on which illegal buildings or structures or uses are located and may remove such uses, buildings, or structures or may be used by the Township for public use. The costs and expenses of such acquisition may be assessed against a benefit district, or may be paid from other sources of revenue.

ARTICLE 6

OFF-STREET PARKING OF MOTOR VEHICLES

6.01 GENERAL REQUIREMENTS

Every property owner shall provide and maintain at all times an adequate number of off-street parking spaces, and the necessary loading and unloading facilities associated thereto in each district for all occupants, employees and patrons of said property.

6.02 PARKING SITE PLANS

A site plan showing the required parking and loading spaces including the means of access and interior circulation, except for one-family and two (2) family dwellings, shall be provided at the time of application for a building permit for the erection or enlargement of any building.

6.03 REQUIREMENTS FOR PARKING SPACES AND PARKING LOTS

Parking space shall be provided in the manner and location herein specified.

1. No parking area, parking space or loading space which exists at the time this Ordinance becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this Ordinance shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance.

2. Parking of motor vehicles in residential zones, except those used for agriculture, shall be limited to passenger vehicles, and not more than one (1) commercial vehicle of the light delivery type not to exceed one (1) ton. The parking of any other type of commercial vehicles, or buses, except for those parked on school property, is prohibited in a residential zone.

3. Each automobile parking space shall be not less than two hundred (200) square feet nor less than ten (10) feet wide exclusive of driveway and aisle space.

4. All off-street parking facilities shall be drained so as to prevent damage to abutting properties or public streets and shall be constructed of materials which will have a dust-free surface resistant to erosion.

5. Any lighting fixtures used to illuminate any off-street parking area shall be so arranged as to reflect the light away from any adjoining residential lots.

6. No parking space shall be closer than five (5) feet from any lot line.

7. Off-street parking facilities in non-residential zones shall be effectively screened on any side which adjoins or faces property in any residential zone by a wall, fence or compact planting not less than four (4) feet or more than eight (8) feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property. Screening shall not be so placed or maintained as to provide a traffic hazard through obstruction of visibility.

8. All off-street parking areas that make it necessary for vehicles to back out directly into a public street are prohibited, provided that this prohibition shall not apply to off-street parking areas of one or two (2) family dwellings.

9. Space for all necessary loading and unloading operations for any commercial, industrial or other use must be provided in addition to the required off-street parking space. All loading and unloading operations must be carried on entirely within the lot area of the use it serves and shall not interfere with pedestrian or vehicular movement.

10. Requirements for the provision of parking facilities with respect to two (2) or more uses of the same or different types may be satisfied by the permanent allocation of the requisite number of spaces for each use in common parking facility, cooperatively established and operated, provided the number of spaces designated is not less than the sum of individual requirements and provided further that the specifications in regard to location, plan, etc. are complied with.

11. The number of parking spaces required for lot or building used for two (2) or more purposes shall be the sum of the requirements for the various individual uses, computed in accordance with this section; parking facilities for one (1) use shall not be considered as providing the required parking facilities for any other use.

6.04 MINIMUM REQUIRED PARKING SPACES

1. Multiple dwellings and duplexes: Two (2) parking spaces per dwelling unit.

2. Office buildings: One parking space for each two hundred (200) feet of floor space utilized for work space for employees.

3. Retail stores, supermarkets, department stores, personal service shops, and shopping centers: One parking space for each one hundred fifty (150) square feet area used for retail sales.

4. Manufacturing facilities: One parking space for each one hundred (100) square feet of floor area.

5. Libraries, museums and post offices: One (1) parking space for each one hundred fifty (150) square feet of floor area.

6. Bowling alleys: Five (5) parking spaces for each alley.

7. Motels and hotels: One (1) parking space for each separate unit.

8. Theaters, auditoriums, stadiums and churches: One (1) parking space for each four (4) seats.

9. Dance halls, assembly halls and convention halls without fixed seats: One parking space for each one hundred (100) square feet of floor area if to be used for dancing or assembly.

10. Restaurants and night clubs: One parking space for each one hundred (100) square feet of floor area.

11. Roadside stand, except for farm markets allowed under Section 3.02(4): Six (6) parking spaces.

12. Schools, private or public elementary and junior high schools: One (1) parking space for each employee normally engaged in or about the building or grounds. Senior high schools and institutions of higher learning: One (1) parking space for each employee normally engaged in or about the building or grounds and one (1) additional space for each five (5) students enrolled in the institutions.

13. Other uses not specifically mentioned: In the case of buildings which are used for uses not specifically mentioned, those provisions for off-street parking facilities for a use which is so mentioned and to which said use is similar in terms of parking demand shall apply.

14. Mixed uses in the same building: In the case of mixed uses in the same building, the amount of parking space for each use specified shall be provided and the space for one (1) use shall not be considered as providing required spaces for any other use except as to churches and auditoriums incidental to public and parochial schools permitted herein.

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ARTICLE 7

ZONING DISTRICT BOUNDARIES

7.01 ZONING MAP

The location and boundaries of the zones established in the Township shall be shown on a map entitled "Zoning Map of Montague Township", and said map, section or portion thereof, together with all notations, dimensions and other data shown thereon, are hereby made a part of this Ordinance to the same extent as if the information set forth on said map were fully described and incorporated herein.

7.02 CUSTODY OF ZONING MAP

The official copy of the zoning map shall be in the custody of the Township Clerk.

7.03 ZONING MAP AMENDMENTS

Such zoning map may be amended from time to time to reflect changes in zones, and the rezoning of property shown thereon may be made in the same manner as amendments to the text of this Zoning Ordinance. Such changes shall be accomplished by written legal descriptions in appropriate amending ordinances.

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ARTICLE 8

SITE PLAN REVIEW

8.01 STATEMENT OF PURPOSE

The intent of this article is to provide for consultation and cooperation between the lot owner(s) and the Township in order that the lot owner(s) may accomplish their objectives in the utilization of their land within the regulations of this Zoning Ordinance and with minimum adverse effect on the use of adjacent streets and on existing and future uses in the vicinity.

8.02 APPLICABILITY

The Township Building Official shall not issue a permit for any construction or uses until a site plan, submitted in accordance with this section, shall have been reviewed and approved by the Township Planning Commission. Excepted from this provision are:

1. Single family or duplex dwellings and agricultural buildings.
2. Accessory buildings requiring no new or additional means of access thereto from adjoining streets and complying with all other applicable Zoning Ordinance requirements.

8.03 OPTIONAL SKETCH PLAN REVIEW

Preliminary sketches of proposed site and development plans may be submitted for review to the Planning Commission prior to submission for final approval. The purpose of such procedure is to allow discussions between a lot owner(s) and the Planning Commission to better inform the lot owner(s) of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. The Township shall not be bound by any tentative approval given at this time. Such sketch plans shall include as a minimum the following:

1. The name and address of the applicant or lot owner(s), including the names and addresses of any officers of a corporation or partners of a partnership.
2. A legal description of the property.
3. Sketch plans showing tentative site and development plans.

8.04 SITE PLAN APPLICATION PROCEDURE

Requests for final site plan review shall be made by filing with the Township Clerk the following:

1. A review fee as determined by resolution of the Township Board.
2. Five (5) copies of the completed application form for site plan review, which shall contain as minimum the following:
 - A. The name and address of applicant.
 - B. The legal description of the lot.
 - C. The area of the lot stated in acres or, if less than an acre, in square feet.
 - D. The present zoning classification of the subject parcel.
 - E. A general description of the proposed development.
3. The site plan shall include as a minimum the following:

A scale drawing of the site and proposed development thereon, including the date, name and address of the preparer; if appropriate, the topography of the site and its relationship to adjoining land; existing man-made features; dimensions of setbacks, locations, heights and size of buildings and structures and other important features; percentage of the lot covered by buildings and that reserved for open space; dwelling unit density where pertinent; location of public and private streets and easements contiguous to and within the proposed development which are planned to be continued, created, relocated, or abandoned, including grades and types of construction of those upon the site; curb-cuts, driving lanes, parking and loading areas; location and type of drainage, sanitary sewers, storm sewers, and other facilities; fences; landscaping; screening; proposed earth changes; environmental impact of the project; signs and on-site illumination; and any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be demanded by the Planning Commission.

8.05 ACTION ON APPLICATION AND PLANS

1. Upon receipt of the application and plans, the Township Clerk shall record the date of the receipt thereof and transmit three (3) copies thereof to the chairperson of the Planning Commission; one (1) copy to the Township Zoning Administrator, and one (1) to be retained by the Township Clerk.

2. A hearing shall be scheduled by the chairperson of the Planning Commission for a review of the application and plans as well as the recommendations of the Township building and Zoning Administrators with regard thereto. Members of the Planning Commission shall be delivered copies of the same prior to the hearing for their preliminary information and study. The hearing shall be scheduled within thirty (30) days following the date of the receipt of the plans and applications by the Township Clerk.

3. The applicant shall be notified of the date, time and place of the hearing on the application not less than seven (7) days prior to such date.

4. Following the hearing, and in the case of permitted uses, the Planning Commission shall have the authority to approve, disapprove, modify or alter the proposed plans in accordance with the purpose of the site plan review provisions of the Township Zoning Ordinance and criteria therein contain. Any required modification or alteration shall be stated in writing, together with the reasons therefor, and delivered to the applicant. The Planning Commission may either approve the plans contingent upon the required alterations or modification, if any, or may require a further review after the same have been included in the proposed plans for the applicant. The decision of the Planning Commission shall be made within ten (10) days of the hearing. For site plan reviews which also involve conditional use applications, the Planning Commission shall, following the hearing, submit their recommendation to the Township Board, which shall make the final determination on the conditional use permit.

5. A copy of the approved final site plan with any required modifications thereon shall be maintained as part of the Township records for future review and enforcement. One (1) copy shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by the Township Clerk or Planning Commission Chairperson for identification of the finally approved plans. If any variances from the Zoning Ordinance have been obtained, the minutes concerning the variance, duly signed, shall also be filed with the Township records as a part of the site plan and delivered to the applicant for their information and direction.

8.06 CRITERIA FOR REVIEW

In reviewing the application and site plan and approving, disapproving or modifying the same, the Township shall be governed by the following standards:

1. That there is a proper relationship between the existing streets in the vicinity and proposed deceleration lanes, service drives, entrance and exit driveways and parking areas to assure the safety and convenience of pedestrian and vehicular traffic.

2. That the building or structure and entryways thereto proposed to be located upon the lot are so situated and designed as to minimize adverse effects therefrom upon owners and occupants of adjacent properties, the neighborhood, and the traveling public.

3. That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.

4. That any adverse effects of the proposed development and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing or landscaping.

5. That all provisions of the Township Zoning Ordinance are complied with unless an appropriate variance therefrom has been granted.

6. That any building or structure is accessible to emergency vehicles.

7. That the plan, as approved, is consistent with the intent and purpose of zoning to promote public health, safety, morals and general welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public and private streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; and to conserve the expenditure of funds for public improvements and services; to conform with the most advantage uses of land, resources and properties; to conserve property values and natural resources; and to develop each lot according its peculiar suitability for particular uses and the general and appropriate trend and character of land, building and population development.

8.07 CONFORMITY TO APPROVED SITE PLAN

1. A lot which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have been approved. If construction and development does not conform with such approved plan, the approval thereof shall be forthwith revoked by the Zoning Administrator of the Township by written notice of such revocation posted upon the premises involved and mailed to the lot owner(s) at his last known address. Upon revocation of such approval, all further construction activities shall cease upon the site, other than for the purpose of correcting the violation. However, the Township may, upon application of the lot owner(s) and after a hearing before the Planning Commission, approve an amendment to the site plan to coincide with the lot owner(s)' construction provided that such construction

complies with the criteria contained in the site plan approval provisions and with the spirit, purpose and intent of the Township Zoning Ordinance.

2. Approval of the site plan shall be valid for a period of one (1) year after the date of approval. If a building permit has not been obtained and on-site development actually commenced within said one (1) year, the site plan approval shall become void and a new application for site plan approval shall be required and new approval shall be required and obtained before any construction or earth change is commenced upon the site.

8.08 AMENDMENT TO SITE PLAN

A proposed material amendment, modification or alteration to a previously approved site plan shall be submitted for review in the same manner as the original application was submitted and reviewed.

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ARTICLE 9

GENERAL LIGHTING AND SCREENING REQUIREMENTS

9.01 LIGHTING

All lighting upon any premises, regardless of zone, shall be so arranged that such lighting does not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining lots or to the traveling public.

9.02 SCREENING

Except as otherwise provided in this Zoning Ordinance, all lots used for business, commercial or industrial purposes and which shall hereafter be improved, altered or expanded, shall be screened from adjoining premises located in any "R-1", "R-2", "R-3", "MH", "NR", or "FR" District, by any of the following:

1. A natural compact planting area of evergreens or shrubbery which maintain their density and screening effect throughout the calendar year, not less than four (4) feet in height at the time of planting and maintained in neat and attractive manner commensurate with the adjoining residential district.

2. An artificial wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants or adjoining or adjacent to premises, not less than five (5) feet in height and maintained in a neat and attractive manner, commensurate with the adjoining residential district.

3. No planting area, hedge, wall, or fence adjoining any street right-of-way line, shall be located or constructed to interfere with reasonable or necessary clear vision at any intersection of any public or private streets or of any private drive abutting a public or private street.

9.03 DISPUTES OVER LIGHTING OR SCREENING

In the event of any controversy as to the adequacy of any proposed or existing screening or creation of any nuisance or annoyance by artificial lighting, the Zoning Board of Appeals shall have the right and is hereby given the authority to determine whether the same is in violation of these screening and lighting provisions and the purpose herein sought to be accomplished.

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ARTICLE 10

TENTS AND TRAVEL TRAILERS; MOBILE HOMES; RECREATIONAL VEHICLES AND EQUIPMENT

10.01 TEMPORARY VACATION USE

Tents, travel trailers and/or recreational vehicles shall not be used for dwelling purposes within the Township limits; provided, however, that they may be used for temporary dwellings for a total period of not more than thirty (30) days in any one (1) calendar year when located upon a lot having running water and approved sewage facilities, and provided further that they may be occupied for dwelling purposes within duly licensed campgrounds, and subject to the requirements thereupon imposed.

10.02 TEMPORARY CONSTRUCTION PERMIT

Mobile homes which do not conform to the standards of Section 2.02 (see definition of "Dwelling, Single Family") of this Ordinance shall not be used for dwelling purposes within the Township, unless used for temporary residence purposes as hereinafter provided. However, a permit may be secured from the Zoning Administrator to use a mobile home as a temporary residence for a period not to exceed six (6) months provided that the ability and intent to erect a house on the premises is shown; and provided that the mobile home is located upon premises having running water and approved sewage facilities. Upon expiration of the six (6) month period, the Zoning Administrator may renew the permit for an additional period of six (6) months upon sufficient showing that the house construction could not be completed within the initial six (6) months but has substantially progressed during said period. The Zoning Administrator may require a reasonable performance bond conditioned upon the removal of the mobile home from the premises within the time limited.

10.03 STORAGE OF RECREATION EQUIPMENT

Recreation equipment (including but not limited to recreational vehicles, boats, unlicensed off-road motorcycles, and 4-wheelers) may be located outside of an enclosed building on any lot within an "R", "MH", "FR", or "NR" zoning district only if the following requirements are met:

1. If located on a corner or an interior lot, recreational equipment shall not be located within a required front yard. If located on an interior lot, recreational equipment shall not be located in the required front yard, or rear yard between a street and rear yard setback.

2. Notwithstanding the provisions of this section, recreational equipment may be parked within any yard, for repair cleaning, loading, or unloading purposes for not more than forty eight (48) hours within any seven (7) day period.

ARTICLE 11

DISMANTLED, NON-OPERATING OR UNLICENSED MOTOR VEHICLES

11.01 STATEMENT OF PURPOSE

The purpose of these regulations is to limit and restrict the outdoor storage or accumulation of dilapidated or unlicensed motor vehicles, motor vehicle parts, unused motor vehicles, stock cars, and non-operating motor vehicles upon any land in the Township except within areas where a junkyard is permitted to operate or the area is zoned for such purposes.

11.02 DISMANTLED VEHICLES

No person, corporation or other entity shall store, place or permit to be stored or placed, allowed to remain on any lot, car parts of or a dismantled, partially dismantled or inoperable motor vehicle, unless the same is kept in a wholly enclosed structure, or is located in an approved junkyard or unless a temporary permit therefor is first obtained from the Township Planning Commission to be granted only in special hardship cases beyond the control of the applicant, where peculiar circumstances exist, where no adjoining property owner is adversely affected thereby, and where the spirit and purpose of these regulations are still observed.

11.03 UNUSED OR UNLICENSED VEHICLES

No person, corporation, or other entity shall park or store upon premises within the Township more than one (1) motor vehicle in operating condition which is unlicensed or is not regularly used for the purpose for which it was manufactured or designed unless the same is kept within an enclosed building, approved junkyard, or unless a temporary permit is first obtained therefor from the Planning Commission, to be granted only in special hardship cases beyond the control of the applicant, where special peculiar circumstances exist, where no adjoining property owner is adversely affected thereby, and where the spirit and purpose of these regulations are still observed.

11.04 STORAGE AND REPAIR OF VEHICLES

1. The repair, restoration and maintenance procedure or projects on vehicles in any "R", "MH", "FR", or "NR" zoning district, when such work is not conducted entirely within the interior of a building, shall be subject to the following limitations (bona fide agricultural operations are exempt from these provisions):

A. Procedures or projects exceeding forty eight (48) hours in duration or which require the vehicle to be immobile or inoperable in excess of forty eight

(48) hours shall be carried out within an enclosed garage. Only one (1) such period shall be permitted within a single thirty (30) day period.

B. Inoperable or unlicensed vehicles and vehicle parts shall be stored inside a building, provided, however, in the "AG" Agricultural District two (2) vehicles may be stored in the rear yard with no time limitation for said storage.

2. It shall be unlawful for the owner, tenant or lessee of any lot in any "R", "MH", "FR", or "NR" zoning district to permit the open storage or parking outside of a building of semi-truck trailers, bulldozers, earth carriers, cranes or any other similar heavy equipment or machinery, unless parked thereon while in use in construction being conducted on such lot.

11.05 NON-REPEAL OF OTHER ORDINANCES

These provisions shall not be construed as repealing any ordinance now in effect or hereafter made effective relating to motor vehicles, rubbish, litter, garage, refuse, trash or junk but shall be construed as supplementary to any such ordinances, as well as any statutes of the State of Michigan relating thereto.

ARTICLE 12

ADVERTISING SIGNS AND BILLBOARDS

12.01 SIGNS IN “R” OR “MH” DISTRICTS

No advertising signs or billboards of any kind or nature shall be erected in any “R” or “MH” zoning district, except as follows:

1. A name plate not exceeding one (1) square foot in area containing the name and the home occupation of the occupant of the premises, and a temporary sign pertaining to the construction, lease, hire or sale of a building or premises not exceeding sixteen (16) square feet in area may be installed or erected.

2. Any Conditional Use authorized in such district may, as part of such Conditional Use permit application, apply for a conditional use to erect and maintain a larger sign, not to exceed sixteen (16) square feet in area.

12.02 SIGNS IN “A”, “NR”, or “F-R” DISTRICTS

In an “A” Agricultural, “NR” Natural River, or “F-R” Forestry-Recreational District classification, a sign not exceeding thirty two (32) square feet in area advertising permitted services rendered or offered upon or from the premises where the same is situated (except for home occupation and temporary signs which are governed by Section 12.01(1) above) may be constructed provided it is located not less than one-half the required building setback distance from the street right-of-way line abutting the property; in no way constitutes a traffic hazard; is of a subdued nature commensurate with the residential or agricultural character of the neighborhood; is maintained in a neat and attractive manner; contains no neon or intermittent lighting, or other bright or glaring lighting which would be a nuisance or annoyance to a neighborhood or which would create any electrical disturbance therein; and if projecting from a building or located over a sidewalk or pass way is not less than eleven (11) feet above such sidewalk or pass way.

12.03 PERMITS REQUIRED

Further, except as provided in Section 12.01(1), no sign shall be erected or installed until a permit is first obtained from the building and Zoning Administrators of the Township. No advertising sign or billboard permit shall be issued until the Building Official is satisfied the sign to be constructed complies with the provisions of this Ordinance and will be constructed in a safe, sturdy, and durable manner with proper bracing anchorage, and foundation.

12.04 SIGNS IN "C" DISTRICTS

Billboards may be erected in the Commercial District provided they do not exceed fifty (50) square feet in area, are set back no less than seventy five (75) feet from any abutting street right-of-way line; do not constitute a traffic hazard; are maintained in a neat and attractive manner; do not create a nuisance or annoyance by reason of lighting, electrical disturbance, or otherwise; and are not installed or constructed until a permit therefor has been received from the Building Inspector and Zoning Administrator of the Township.

12.05 SIGNS IN "I" DISTRICTS

Advertising signs or billboards, which advertise goods, products, services or activities sold, produced, rendered or available from or upon the premises where the same are located, may be installed or constructed within an Industrial District provided they are located not less than ten (10) feet from the side line of the property nor less than one-half the required building setback distance from the abutting street right-of-way line; in no manner constitute a traffic hazard; are not less than eleven (11) feet above any sidewalk or pass way for pedestrians or vehicles beneath the same; are not a nuisance or annoyance by reason of lighting, electrical disturbance, or exceed fifty (50) square feet in size, and are not constructed or installed until a permit therefor has first been obtained from the Building Inspector and Zoning Administrator of the Township.

12.06 HIGHWAY ADVERTISING ACT

Signs within business, commercial or industrial areas, as defined in the "Highway Advertising Act of 1972" (1972 PA 106) bordering interstate highways, freeways, or primary highways as defined in said Act shall be regulated and controlled by the provisions of such statute; however, the provisions of the within Zoning Ordinance shall still apply to the extent not preempted by such Act.

ARTICLE 13

MISCELLANEOUS PROTECTION REQUIREMENTS

The following regulations of buildings, structures and/or land and the uses thereof are applicable to all zoning districts regardless of classification, unless otherwise specifically limited in this Article 13.

13.01 WATER/SEWER FACILITIES

Every structure hereafter erected for dwelling purposes shall be provided with potable running water, adequate inside water closet accommodations and sewage facilities, all approved by the Muskegon County Health Department. No building permit or zoning permit shall be issued unless the lot is first approved by the Muskegon County Health Department. Provided further that nothing herein shall prohibit the use of alternate sewage technologies, such as composting toilets, if approved by the Montague Township Planning Commission.

13.02 OUTSIDE TOILETS

No outside toilets shall hereafter be erected except: (a) as may temporarily be needed during construction on the premises, during short duration events, or for seasonal agricultural labor use; or (b) in all zoning districts other than Residential Zoning Districts, except upon conditional use permit granted by the Planning Commission.

13.03 BASEMENT DWELLINGS

No building, the major portion of which consists of a basement, shall be occupied for living and/or sleeping purposes by human beings except under a temporary conditional use permit from the Planning Commission for a limited period of no more than two (2) years to permit the construction of the above grade dwelling superstructure as shown on appropriate plans submitted by the applicant, and provided said Planning Commission is satisfied of the applicant's ability and intent to complete such construction within said period.

13.04 GARAGE DWELLINGS

Any building erected as a private garage or in which the main portion is a private garage shall in no case be occupied for dwelling purposes unless it is auxiliary to a residence already being occupied upon the premise and unless it also complies with all the provisions of this Ordinance relating to buildings for residential purposes.

13.05 MOVING BUILDINGS

No building which has been wholly or partially erected on any lot located within or outside the Township of Montague shall be moved to or placed upon any other lot of this Township without full conformance to all provisions of this Ordinance in the same manner as a new building. Any person desiring to move a building to a location within the Township shall apply to the Zoning Administrator therefore, which permit shall not become valid until a proper bond of \$10,000 has been filed with the Township Board and approved by it. The permit shall state the streets and alleys along which the removal shall be made. The owner or contractor shall cause written notice thereof to be given the telephone and electric light companies, and others whose property may be affected by such removal.

13.06 VACANT, DANGEROUS, OR COLLAPSED BUILDINGS

Whenever it shall be certified by the Township Building Inspector or health officer that a vacant building or structure is unfit for human habitation, or occupancy or dangerous to life or health by reason of want of repair, or of defects in the drainage, plumbing, lighting, ventilation, or the construction of the same, or by reason of the existence on the premises of a nuisance likely to cause injury or sickness, or like cause, among occupants thereof, the Township Building Inspector may issue an order to the owner thereof not to occupy or cause to be occupied the said building or structure until the danger therefrom has ceased to exist, and the owner thereof has secured a certificate of occupancy from the Building Inspector and as provided for in this Ordinance. The owner of any dangerous or collapsed building may be ordered by the Township Building Inspector to repair or remove such building or structure and upon failure to do so within thirty (30) days of receipt of such order, the Township may do so, and assess the costs thereof against such owner as a lien against such property.

13.07 FENCES

In any "R", "MH", "FR", or "NR" zoning district no fence or wall or other screening shall be erected except as provided in this section:

1. No opaque fence, wall or other screening structure shall be erected within the limits of a front yard, unless it is at least thirty feet (30) from the street right-of-way or, in the case of a corner lot, within the setback limits of the side yard bordering on the street.

2. Within a side or front yard, no fence, wall or other screening structure shall be erected if higher than five (5) feet above the surface of the ground.

3. Within the rear yard, no fence, wall or other screening structure other than evergreens, deciduous trees, shrubs and bushes, shall be erected higher than eight (8) feet above the surface of the ground.

13.08 SWIMMING POOLS

1. All swimming pools shall conform to the requirements of this Zoning Ordinance, of applicable State law, the construction code then in effect for Montague Township, and the Muskegon County Health Department.

2. No swimming pool shall be constructed or placed in the front yard or the case of a corner lot, in the side yard bordering on the street.

3. Swimming pools to be constructed or which are already constructed, shall be enclosed by a fence, walls or other structure which shall be at least five (5) feet in height but not exceeding eight (8) feet in height, measured from the outside. Any opening under the bottom of the fence shall not be more than four (4) inches in height. A fence or wall enclosure shall be of a type that impedes climbing by small children and shall be equipped with a gate that is self-closing and latching type with the latch on the pool side of the gate. If a fence or wall meeting the above the requirements, encloses the pool and the principal building or structure and all accessory buildings or structures located on the premises, a separate pool fence meeting the above requirements need not be constructed.

4. No swimming pool shall be installed or erected without a building permit and a zoning permit.

13.09 STATE LICENSED RESIDENTIAL FACILITIES

No state licensed residential facility or foster care home or facility shall be located in any district within the Township unless same is located in excess of a one thousand five hundred (1500) foot radius from the nearest existing state licensed residential facility.

13.10 DUMPING

No tin cans, stoves, garbage, automobile bodies, junk, refuse, or any personal, commercial, or industrial waste materials shall be dumped on any private or public land within the Township of Montague unless such location has been designated as a sanitary land fill by the Township Board and the County Health Department. Also see Section 13.20.

13.11 MINING OR REMOVAL OF SOIL

The use of a lot for the removal of fill or top soil, sand, gravel or other material shall be prohibited within the Township, except upon issuance of a conditional use authorized by the Township Board, or for less than one hundred (100) cubic yards of material per lot, or as a by-product of construction on the lot.

13.12 LOT ACCESSIBILITY TO A STREET; DRIVEWAY AND PRIVATE STREET REQUIREMENTS

No dwelling or other building intended for occupancy shall be built on a lot unless the lot abuts a public street or a private street. All private streets shall comply with the following requirements. Driveways and private streets serving a single lot shall only be required to comply with Subsection 13.12(5) below.

1. No private street shall be constructed, extended, upgraded to serve additional lots, or relocated unless an application for a private street construction permit has been completed, filed with the Township Planning Commission, the permit fee established for private road construction permits has been paid to and received by the Township, the private street has been approved as a conditional use, and a conditional use permit has been issued in writing to the applicant.

2. A private street construction permit shall be issued only if the private street has been approved as a conditional land use after review and recommendation by the Township Planning Commission and approval by the Township Board. Such review, recommendation and approval shall consider the following standards:

A. Whether the private street meets the requirements of this Section 13.12.

B. Whether the private street is reasonably necessary to be private, or if it would be in the best interest of the Township for the street to be a public street.

C. Whether the use of such private street has the potential to cause conditions which may be detrimental to the health, safety, or welfare of persons or property through the creation of hazards or potentially hazardous situations.

D. Whether the applicable conditional use standards of Article 4 have been complied with.

3. An application for a private street construction permit shall include all of the following information:

A. The name(s) of the owner(s) and any other parties having any legal interest in the private street and the property across which the private street is to be constructed.

B. For private streets intended to serve other than a single lot with a single family dwelling, or other building intended for occupancy, a site plan drawn to scale, prepared by a registered engineer, showing all proposed lots along the private street, and also showing the precise location, grade, route, elevation, dimensions, and the 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. The site plan may be prepared by a registered surveyor, or other qualified person, rather than a registered engineer, if the proposed private street is to serve from two (2) to five (5) lots.

C. The location of all public utilities including but not limited to water, sewer, telephone, natural gas, electricity, and cable television to be located or reserved to be located within the private street right-of-way or within twenty (20) feet either side thereof.

D. Copies of the deed, easement, or other instrument describing, creating, and granting the private street, including any easement for public utilities, shall be submitted with the application.

E. The location of any lakes, streams, wetlands, and/or drains within the proposed public street right-of-way or within one hundred (100) feet thereof.

F. The location of any other buildings and structures located within one hundred (100) feet of the private street.

G. A proposed maintenance agreement as set forth in this section; see Subsections 13.12(16) and (17).

H. Any other requirements of this Ordinance.

4. The Township building and zoning officials, members of the Township Planning Commission, and members of the Township Board, or their respective agents and/or designees, shall have the right to enter upon the property where the private street is (or will be) located to conduct such inspections as may be necessary to review and enforce this section, including both before and after the construction of the private street.

5. Driveways and private streets serving only one (1) lot shall not be required to file an application for a private street construction permit, but shall have a permanent recorded right-of-way and easement with a minimum width of at least twenty (20) feet. The right-of-way shall be cleared for the entire twenty (20) feet. The width of the traveled drive or street shall be at least thirteen (13) feet. An approved driveway permit shall be obtained from the State Highway Department or Muskegon County Road Commission and submitted to the Building Official prior to issuance of a building permit.

6. A private street serving other than one (1) lot shall have a permanent recorded right-of-way and easement with a minimum width of at least sixty-six (66) feet. Private streets serving two (2) to five (5) lots, each lot of which will contain not more than a single family dwelling with associated accessory buildings, shall be cleared to a minimum width of twenty eight (28) feet and have a minimum traveled road bed width of eighteen (18) feet, and be constructed with a minimum sub-base of twelve (12) inches of sand and six (6) inches of finished compacted gravel (no. 22A) or similar acceptable material on the top thereof.

7. Private streets serving other than two (2) to five (5) lots, and serving other than lots containing single family dwellings with associated accessory buildings, shall be cleared to a minimum width of twenty eight (28) feet and have a minimum paved road bed width of twenty two (22) feet and meet Muskegon County Road Commission standards applicable to comparable paved public streets.

8. All such private streets shall be permanently dedicated, by an enforceable instrument recorded with the Muskegon County Register of Deeds, for the benefit of any lot or lots served by the private street. Such instrument shall, in addition to providing for ingress and egress by foot and vehicular traffic, allow for ingress and egress for all available utilities.

9. Any private street which terminates at a dead-end shall have a means for vehicular turn around, either by use of a cul-de-sac, with a minimum radius of forty (40) feet or by a continuous loop private road system, both of which must be constructed in accordance with the applicable standards set forth in this Section 13.12.

10. No private street shall extend for a distance of more than three thousand (3000) feet in length from the nearest public street, as measured along the centerline of the private street, without a second direct access thereto being available from another or the same public street.

11. The street surface must have a minimum crown of two tenths (.2) of one (1) foot from the centerline of the private street to the outside edge thereof.

12. The maximum longitudinal road grade shall not exceed six percent (6%) provided that the Township may allow up to a ten percent (10%) grade if the applicant produces written justification satisfactory to the Township, that an increase in the road grade will not adversely affect public safety and the design of the private street.

13. The private street shall be constructed with such storm water run-off, culvert, and drainage containment as is reasonably required by the Township to insure adequate surface water drainage and run-off.

14. The method and construction technique to be used in the crossing of any natural stream, wetland, or drainage course shall satisfy the reasonable requirements of the Township.

15. A private street serving other than one (1) lot with a single family residence (and associated accessory buildings) shall be given a name, and street signs shall be installed in accordance with the standards and approval of the Muskegon County Road Commission. The private street addresses shall be posted in a conspicuous place at the entrance to the private street (at the intersection with a public street) in letters at least three (3) inches high. Private streets serving two (2) or more lots shall have a standard stop sign where the private street abuts the public street.

16. A private street serving other than a single lot containing a single family dwelling (with associated accessory buildings) shall be subject to a recordable private road maintenance agreement or restrictive covenant agreement between the owner(s) of the private street and any other lots having interest therein, which private road maintenance agreement shall contain the following provisions:

A. "The owners and their successors of the private street and any lot served by the private street shall and hereby do indemnify the Township against and hold the Township harmless from, any and all claims for personal injury and/or property damage arising out of the use of the private street or the failure to properly construct, maintain, repair, and replace the private street."

B. "This instrument shall run with the land and be permanently applicable to all parcels of land served by the right of way created by this instrument."

C. "The Township Building Inspector, or Zoning Administrator, members of the Township Planning Commission and members of the Township Board, or their respective agents and/or designees, shall have the right to enter upon the property where the private street is (or will be) located to conduct such inspections as may be necessary to review and enforce the conditional use permit, including both before and after the construction of the private street."

D. "The right-of-way created by this instrument is not a public road or street, and is not required to be maintained by any governmental unit, including the Township or the Muskegon County Road Commission."

E. "The terms and conditions of this agreement may be enforced by the Township of Montague and the cost of such enforcement – including any maintenance undertaken by the Township with respect to such private street -- chargeable as a lien against all lots served by the private street, and be collectible in the same manner as real property taxes. Such enforcement by the Township may also include any other remedy available at law or equity, and such remedy may be applied to the owner(s) and their successor(s) of any lot served by the right-of-way for which this instrument applies."

F. "All costs for maintenance and repair of the private street created by this easement shall be the ultimate responsibility of the property owners or property owners association or their successor, served by the right-of-way created by this easement."

17. In addition to the verbatim quotes set forth in the previous subsection, all road maintenance agreements shall contain language satisfying the following conditions:

A. That the private street shall be regularly maintained, repaired, and snowplowed so as to assure that it is reasonably safe for travel at all times.

B. How the cost of such maintenance will be allocated and collected.

C. A provision indicating how the cost allocation will be made and how collection of such cost allocation will be enforced.

D. The identity of the properties whose owner(s) and successors are responsible for maintenance of the private street.

18. Additional terms and conditions applicable to private streets:

A. The provisions applicable to private streets as set forth in this Section 13.12 shall apply to all private streets hereafter constructed and to all existing private streets which are hereafter altered or extended to serve additional lots, relocated, or upon which an existing lot is divided for the purpose of creating additional lots upon which any principal use structure, including but not limited to single family dwellings, is to be or may thereafter be constructed.

B. If the completed private street does not satisfy the requirements of the permit or this Zoning Ordinance, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time in which to correct the deficiencies. Failure to correct the deficiencies within the time

provided shall subject the applicant(s) to the penalties provided for in this Zoning Ordinance. No building permit shall be issued for a lot along a private street until and unless the private street fully complies with this Zoning Ordinance.

C. Upon completion of construction of the private street, the applicant(s) and owner(s) thereof shall remove and properly dispose of any and all downed trees, shrubs, construction debris, and rubbish occasioned by the construction of the private street.

13.13 ACCESSORY BUILDING OR USE PROHIBITED WITHOUT A PRINCIPAL BUILDING OR USE

No accessory building or use shall be constructed, used or engaged in prior to the establishment of the principal building or use upon the premises except as a construction facility for said principal building or structure.

13.14 CLEAR VISION CORNERS

All intersections of streets shall be provided and maintained with a clear unobstructed vision corner extending not less than twenty (20) feet from all right-of-way line intersections along said right-of-way line in the form of an isosceles triangle, within which no vehicle parking or obscuring structures, storage, growth or displays shall be located or allowed.

13.15 OPEN SPACE

No single family, two (2) family or multiple family dwelling or dwellings and buildings accessory thereto shall occupy more than 30% of the ground area of the lot upon which the same is located.

13.16 NUMBER OF DWELLINGS ON LOTS

Except as provided to the contrary in Section 3.02(7), no lot shall contain more than one (1) single family dwelling, unless approved pursuant to the terms of this Ordinance as a duplex or multi-family dwelling.

13.17 SITE CONDOMINIUMS

Pursuant to the authority of Section 141 of the Condominium Act, Public Act 59 of 1978, as amended, all site condominium subdivisions shall meet the following requirements and procedures.

1. All site condominiums shall require site plan approval in accordance with Article 8, provided, however, site condominiums incorporating private streets shall also meet the standards of Section 13.12. In addition to the information required in Article 8, the following shall also be included for site plan review:

A. A condominium subdivision plan as required in Section 66 of the Condominium Act.

B. Documented proof of review by the Muskegon County Road Commission, Drain Commissioner, Health Department, Michigan Department of Transportation and Michigan Department of Natural Resources/Environmental Quality.

2. All site condominiums shall meet the requirements of the zoning district in which it is located, including minimum lot size for each "unit", minimum setbacks and minimum building floor area.

3. The Montague Township Clerk shall be furnished with a copy of the recorded master deed, as defined in Section 8 of the Condominium Act. The master deed must ensure that Montague Township will not be responsible for maintenance or liability of the non-dedicated portions of the site condominium and that all private streets will be properly maintained, that snow removal will be provided and that there is adequate access and turnaround for emergency vehicles. Responsibility for maintenance of stormwater retention areas, drainage easements, drainage structures, lawn cutting and other general maintenance of common areas must be clearly stated.

4. The Montague Township Clerk shall be furnished with two (2) copies of all "as-built" drawings for review by the Township Zoning Administrator and Building Official for compliance with all Township ordinances prior to issuance of any occupancy permits. Fees for this review shall be established by the Township Board.

13.18 RAZING OF BUILDINGS

No building shall be razed until a building permit has been obtained. The Building Official shall be authorized to require a performance guarantee in any amount not to exceed one thousand dollars (\$1,000.00) for each one thousand (1,000) square feet or fraction thereof of floor area of the building to be razed. Said guarantee shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with regulations as to health and safety as the Building inspector may, from time to time, prescribe, including filling of excavations, proper termination of utility connections, and other applicable building codes.

13.19 CONSTRUCTION SITE ACCESS

1. A driveway shall be provided for emergency and fire department vehicles from the nearest available street to a construction site prior to any structural framing being done involving combustible materials.

2. The driveway shall be reasonably level with a total cleared area of fourteen (14) feet in width and suitable for traverse by emergency and fire department equipment. Access of streets and/or driveways must be maintained year-around to accommodate use of emergency and fire vehicles.

13.20 UNWHOLESOME SUBSTANCES

No unwholesome substance, as hereinafter defined, shall be deposited, buried, stored, dumped or accumulated by any person in any body of water or on or under any land, private or public, in the Township, unless such place has been designated as a public dumping ground or landfill by the Township, or unless such substance is housed in a completely enclosed building and in a safe and sanitary manner. For purposes of this section only, the term "unwholesome substances" shall be defined to mean any trash, garbage, tin can, automobile body, junk vehicle, trailer body, junk, hazardous compounds, waste, offal, refuse, rubbish, food containers, bottles, crockery or utensils, stoves, night soil, oil, hazardous or harmful substances, industrial byproducts or waste, flammable matter or substances, debris, filth, or any other material which constitutes a threat or menace to the health, safety or general welfare of the public. For purposes of this section only, the term "automobile body" shall be defined to mean any vehicle which (1) is unable to be driven upon a street under its own power and/or (2) which lacks all of the necessary component parts to make it operative and serviceable as a trailer to be pulled on such a street. The provisions of this section shall not be deemed to prohibit the storing or spreading of manure, fertilizers or other soil conditions as part of a farm operation.

No sewage, waste water or water containing foreign substances shall be deposited or drained onto any land or deposited or drained into any open ditch, creek, stream, lake, pond or other body of water unless the same has been first approved by the Michigan Department of Health and the Muskegon County Health Department.

No boxes, barrels, waste wood, lumber, scrap metal, automobile body, or other materials shall be accumulated by any person so as to provide insect, rat or rodent harborage. Also see Section 13.10.

13.21 LOT WIDTH TO DEPTH RATIO

In all zoning districts, the depth of all lots created of record after the adoption of this Ordinance shall not exceed four (4) times the width of the lot. For purposes of this section, the measurement of lot width shall be taken along the frontage on the street. The measurement for depth, for purposes of this section, shall be taken from the street frontage to a point of the lot located farthest from the street frontage. The Planning Commission may permit, as a conditional use, a lot with a depth greater than four (4) times the width of the lot, as measured in the manner stated above, if the Planning Commission determines that the area in which the lot is located is not suitable for future development because of the presence of wetlands or severe topography or if such lot or parcel is located in a flood plain. In addition, as to lands in the "AG" Agricultural District, the Planning Commission shall approve such a conditional use only if it determines that all of the following conditions have been satisfied:

1. The parcel is poorly suited for agricultural production due to existing soil conditions, slope, or the presence of natural vegetation, such as woodlots, brushland and wetlands. The Planning Commission, in making its determination, may consider facts such as, but not limited to, past and present uses of the parcel, past productivity, and the difficulty in making the parcel suitable for farming, including the presence of highly erodible land, as defined by the Soil Conservation Service.

2. There will be a minimal likelihood of conflicts arising between the residential use and the surrounding agricultural activities.

3. The permitting of residential use in the circumstances under consideration will not adversely affect the long-term plans and development policies of Montague Township.

13.22 LAND DIVISIONS

No lot or access easement shall be created that does not fully comply with the minimum area, width, frontage, and other requirements of the Montague Township Zoning Ordinance, as amended. All land divisions, splits, or boundary reconfigurations of all lots shall meet the requirements of the Montague Township Zoning Ordinance, as amended, and the requirements of the Michigan Land Division Act (MCL 560.101 et seq, MSA 26.430(10) et seq.). No land division, lot split, creation of an access easement, or reconfiguration of boundary lines shall occur until and unless a land division permit has been obtained from the Montague Township Zoning Administrator or such other entity as may be designated from time to time by resolution of the Township Board. No permit for a land division shall be issued until and unless the Township determines that the land division, lot split, access easement, or boundary reconfiguration, as well as the resulting lots, and access easements fully comply with the requirements of

the Montague Township Zoning Ordinance, as amended, and all other applicable Township Ordinances. Fees for a land division permit shall be set as determined from time to time by resolution of the Township Board. No land division permit shall be approved or issued unless the application is accompanied by a map drawn to scale showing the location and size of all easements and resulting lots, along with the location and size of all improvements thereon. The Township Board may also require a survey prepared by a registered land surveyor or engineer showing same information.

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ARTICLE 14

ZONING BOARD OF APPEALS

14.01 CREATION OF ZONING BOARD OF APPEALS

A Township Zoning Board of Appeals shall be appointed by the Township Board as prescribed by statute, with all the powers and authority prescribed by law or delegated to it under specific provisions of the Ordinance. The Board of Appeals shall consist of three (3) members; one (1) member shall be a member of the Township Planning Commission. The Board of Appeals shall elect its chairperson, provided that an elected officer of the Township shall not serve as chairman of said Board of Appeals and an employee or contractor of the Township may not serve as a member or an employee of said Board of Appeals. One (1) member may be a member of the Township Board.

14.02 TERM OF OFFICE

The term of each member shall be three (3) years and until a successor has been appointed and qualified. Staggered terms shall be effected by one (1) or more of the first appointed members serving for less than three (3) years. Members from the Township Board and from the Zoning Board shall have terms limited to their respective other official terms or to such lesser period determined by resolution of the Township board. A member may be removed as provided by law.

14.03 VOTE DISQUALIFICATION

A member shall disqualify himself or herself from a vote in which he or she has a conflict of interest.

14.04 ALTERNATE ZONING BOARD MEMBERS

The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified to serve as a regular member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals. The first alternate shall have first priority to serve in such

case, and the second alternate shall serve if the first alternate cannot for any reason serve, or if both alternates are required. **(Amended December 2006.)**

14.05 DUTIES

The Zoning Board of Appeals shall hear and make a final determination upon all zoning variance requests, interpretations of this Ordinance, and appeals of administrative decisions of the Zoning Administrator. Appeals of the Zoning Board of Appeals' decisions shall be made within thirty (30) days to the Muskegon County Circuit Court.

ARTICLE 15

ADMINISTRATION AND ENFORCEMENT

15.01 ADMINISTRATION

The Township Board shall appoint a Zoning Administrator and a Building Official, and any necessary assistants, to administer this Ordinance, with such terms of employment and rate of compensation as shall be established by the Township Board. For the purpose of this Ordinance, such officers shall have the powers of a law enforcement officer.

15.02 DUTIES OF ZONING ADMINISTRATOR

The Zoning Administrator shall:

1. Provide forms for and receive applications for all permits, petitions, and/or appeals authorized by this Ordinance, including but not limited to: conditional use permits, site plan approval, and applications for ordinance amendments to be submitted to the Planning Commission; and appeals, variances, and other matters to be submitted to the Zoning Board of Appeals.

2. Verify that all applications, petitions, and appeals submitted under this Ordinance are properly filled out and that all necessary supporting data is submitted; conduct field inspections; inspect surveys and site plans; conduct investigations; prepare maps, charts, or other pictorial materials when appropriate; and otherwise process all such applications, petitions, and appeals submitted under this Ordinance.

3. Maintain written records of all official actions.

4. Administer the Zoning Ordinance pursuant to the terms thereof, as well as the general policies and directives of the Township Board, Planning Commission, and Zoning Board of Appeals.

5. Issue, deny, or rescind Zoning Permits as required by this Ordinance.

15.03 DUTIES OF BUILDING OFFICIAL

The Building Official referred to in this Ordinance is and shall be the Building Official appointed by the Township Board pursuant to the provisions of Act 230 of the Public Acts of 1972, as amended, named the "State Construction Code" and any other construction codes which the Township shall from time to time adopt. The offices of the Building Official and of the Zoning Administrator may both be held by one (1) person. The Building Official shall have, in addition to any other

duties provided by this Ordinance or as subsequently assigned, all duties required by the State Construction Code.

No building permit shall be issued by the Building Official unless a Zoning Permit is issued first. The Building Official and Zoning Administrator shall prepare and submit to the Township Board and Planning Commission a periodic written summary of all building and zoning permits issued. The record shall state the owner's name, location of property, intended use, and estimated cost of construction for each permit.

15.04 ZONING AND BUILDING PERMITS REQUIRED; EXCEPTIONS

Building and zoning permits are required for and shall be obtained prior to the use, construction, enlargement, alteration, conversion, or moving of any building or any part thereof, except under the following circumstances:

1. The erection and/or placing of a temporary portable building incident to any construction operation in any district, so long as the placement of said building shall conform to the setback and height requirements of the district in which it is located.

2. Repairs of a minor nature such as painting and general maintenance and upkeep which do not change the use, occupancy, area, structural strength, fire hazard, fire protection, exits, light, and ventilation of a building.

15.05 REQUIRED COMPLIANCE WITH THIS ORDINANCE

Except as hereinafter specifically provided to the contrary:

1. No building, structure, or lot shall be used or occupied, and no building or any part thereof shall be erected, moved, or altered unless in conformity with the requirements specified for the district in which it is located.

2. No building or structure shall be erected or altered in violation of the lot area, lot width, lot coverage, minimum floor area, front, side, and rear yard setbacks, height, off-street parking, open space, interior living space, greenbelt buffer, accessory building, lot-building relationship, water supply and sanitary sewerage facilities, streets, access, fences, walls, and screens, swimming pools, signs, and other requirements of such building or structure as provided in this Zoning Ordinance for the district in which such building is located.

3. No building or structure shall be erected or altered to accommodate or house a greater number of persons or families than is provided for by the requirements of this Ordinance for such structure for the district in which such structure is located.

4. The maintenance and use of lands and building or structure in compliance with this Ordinance shall be a continuing obligation upon the owner and occupiers of such land and structure.

15.06 PERMITS – VOIDABLE

1. Any zoning or building permit, and any conditional use permit, site plan approval, or variance or other permit issued under this Ordinance shall be deemed null and void in the event that there has not been undertaken, on a material and substantial basis, commencement of construction on the project within one (1) year of issuance of said permits.

2. The Zoning Administrator or Building Official may suspend or revoke any such permit issued in error or on the basis of incorrect information supplied by the applicant or its agents, or in the event that the development is or will be in violation of any other ordinance of the Township, County, State, or Federal Government, or if the construction or use of the premises deviates from the plans or information submitted with the application upon which such permit was issued.

3. If a zoning or building permit issued under this Ordinance is voided or revoked, notice shall be provided to the applicant in person or sent by regular mail to the address on the application for the permit.

15.07 FEES, CHARGES, AND EXPENSES

The Township Board shall establish a schedule of fees, charges, and expenses, and a collection procedure for zoning, building, occupancy, or conditional use permits, site plan review, appeals, variances, and other matters pertaining to the Ordinance. The schedule of fees may be altered or amended by the Township Board only. Provided further that the schedule of fees shall be deemed a minimum or base fee, and in addition the Township may charge its actual costs and expenses incurred in the review of such applications, appeals, or other petitions submitted pursuant to this Ordinance, which costs may include but shall not be limited to: publication fees, professional engineering or site plan review fees by such professionals as the Township may engage, and attorney fees incurred by the Township in advising the Township and in reviewing and drafting documents necessary to the review or grant of any petition submitted to the Township under this Ordinance. No permit, certificate, conditional use approval or variance shall be issued until such costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals or the Planning Commission until preliminary charges and fees have been paid in full. Fees now provided in other existing Ordinances of the Township shall remain in effect until amended by the Township Board. No part of any fee shall be refundable.

15.08 VIOLATIONS - NUISANCES PER SE

Any use of any lot or of any building or structure, including tents, recreational vehicles or equipment, and mobile homes, which are erected, constructed, reconstructed, altered, converted, maintained, used, or changed in violation of this Ordinance, or without obtaining a zoning permit, is prohibited and hereby declared to be a nuisance per se.

15.09 CRIMINAL PENALTIES AND CIVIL RELIEF

Any person or the agent in charge of any building, structure or lot who violates, disobeys, omits, neglects, or refuses to comply with, or resists the enforcement of any provisions of this Ordinance or any amendment thereof, shall be fined upon conviction not more than One hundred and 00/100 dollars (\$100.00), together with the actual costs of prosecution, or shall be punished by imprisonment for not more than ninety (90) days in the County Jail, or both. Each and every day during which an illegal erection, construction, reconstruction, alteration, maintenance, or use continues shall be deemed as separate offenses. In addition to criminal sanctions, the Township or any owner or owners of land or lot within the zoning district in which such structure or land is situated may institute any appropriate action or proceeding to prevent, enjoin, abate, or remove any said unlawful erection, construction, maintenance or use. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

In addition to other sanctions provided herein or elsewhere in this Ordinance, persons determined to be in violation of this Ordinance shall be required to pay and reimburse the Township for its actual costs of prosecution or litigation, including court costs and actual reasonable attorney fees.

15.10 ENFORCEMENT OF ZONING BY CORRECTIVE ACTION AND LIEN

In the event of any violation of any provisions of this Ordinance, and in addition to all other remedies provided herein, the Township Board may undertake to correct the violation and to assess the lot for the cost thereof, which said assessment shall become a lien upon said land and shall be collected in the same manner as Township taxes in accordance with the law in such case made and provided.

15.11 APPEAL TO CIRCUIT COURT

Any interested person aggrieved by a final determination by any duly constituted board or duly appointed official of the Township of Montague, with respect to the enforcement of this Zoning Ordinance, may appeal same to the Muskegon County Circuit Court within thirty (30) days of such final determination.

15.12 PERFORMANCE GUARANTEES

1. The Planning Commission, Zoning Board of Appeals and Township Board are empowered to require a performance bond or cashier's check, or other suitable negotiable security, in an amount equal to the estimated cost of improvements associated with the project.

2. Such performance guarantee shall be deposited with the Clerk of the Township at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site plan; if not, said performance bond or cashier's check shall be forfeited.

3. The Township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Building Official or Zoning Administrator.

4. In cases where the improvements indicated with the approved site plan have not been completed in accordance with the approval granted, the amount of the aforementioned performance guarantee may be used by the Township to complete the required improvements. The balance, if any, shall be returned to the applicant.

15.13 STOP WORK ORDER

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

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

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ARTICLE 16

PLANNED UNIT DEVELOPMENT

16.01 STATEMENT OF PURPOSE

The purpose of these regulations is to permit greater flexibility and consequently, more creative and imaginative design in the development of land than is generally possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of land use choices, the integration of necessary commercial and community facilities, and the preservation of open space for park and recreational use. A permit may be issued for construction and occupancy of a planned unit development ("PUD") subject to approval as a conditional use and also subject to compliance with the requirements, standards and procedures set forth in this Ordinance.

16.02 GENERAL REQUIREMENTS FOR PUD's

A PUD must meet the following conditions:

1. Minimum area: The minimum area required to qualify for a PUD conditional use permit shall not be less than two (2) contiguous acres of land.
2. Control: One (1) or more owners of lots may combine their land and apply for a single PUD conditional use permit, provided that all such owners shall execute the PUD conditional use permit application.
3. Utilities: Water, sewage, and storm drainage facilities shall be provided as part of the site development. All electric, cable, and phone transmission wires shall be placed underground.

16.03 DESIGN REQUIREMENTS

The requirements hereinafter set forth shall apply:

1. Setback and Yards: The minimum setback and yard or open space requirements for buildings may be reduced or increased in the discretion of the Planning Commission to avoid unnecessary disruption of the environment where reasonably equivalent open space is provided elsewhere upon the site.
2. Screening: A screening area may be required by the Planning Commission along the perimeter of the development if deemed necessary to protect the tranquility and property values of adjoining property under separate ownership.

3. Arrangement of open space: A PUD shall contain a reasonable amount of open space and shall be arranged so as to provide access and benefit to the maximum number of lots and/or dwelling units. Separate tracts of open space shall have adequate access from at least one (1) point along a street.

16.04 APPLICATION PROCEDURE AND APPROVAL PROCESS

1. General: whenever any PUD is proposed, before any building permit is granted the developer shall apply for and secure approval of a conditional use in accordance with the following procedures and obtain approval of a detailed Site Plan from the Planning Commission.

2. Application for Sketch Plan Approval: In order to allow the Township and the lot owner(s) to reach an understanding of basic design requirements prior to detailed site design investment, the lot owner(s) shall submit a Sketch Plan of his proposal to the Zoning Board of Appeals. The Sketch Plan shall be drawn to approximate scale and clearly show the following information:

- A. Boundaries of the property.
- B. Location and height of all buildings.
- C. Interior roadway system, parking facilities and all existing rights-of-way and easements, whether public or private.
- D. Delineation of the various residential and/or commercial areas indicating for each such area its size, number of buildings and composition in terms of total number of dwelling units, approximate percentage allocation by dwelling unit type, plus a calculation of the net residential density and commercial density.
- E. The interior open space system.
- F. The overall storm water drainage system.
- G. If grades exceed thirty percent (30%) on portions of the site, have a susceptibility to erosion or a susceptibility to flooding and/or ponding, an overlay outlining the above susceptible soil shall be provided.
- H. Principal ties to the neighborhood and community with respect to transportation, water supply and sewage disposal.
- I. A location map showing uses and ownership of abutting lands.

3. In addition, the following documentation shall accompany the Sketch Plan:

A. General statement as to how common open space is to be owned and maintained.

B. If the development is to be constructed in phases, a general indication of how the sequence of phases is to proceed shall be identified.

C. Approval of Sketch Plan shall not constitute approval of the detailed site plan but shall be deemed an expression of approval of the layout as a guide to the preparation of the detailed plan.

4. Detailed Site Plan:

A. After receiving approval of a Sketch Plan, the applicant shall prepare a detailed site plan and submit it to the Planning Commission for review. However, if more than six (6) months has elapsed between the time of Sketch Plan approval, the Planning Commission may require a resubmission of the Sketch Plan for further review and possible revision.

B. The Detailed Site Plan shall generally conform to the Sketch Plan that has been given approval. It should incorporate any revisions or other features that may have been recommended by the Planning Commission or Township Board at the preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

5. The detailed Site Plan shall include the following information:

A. An area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, subdivisions, streets, utilities, and easements within three hundred (300) feet of applicant's property.

B. A topographic map showing contour intervals of not more than four (4) feet of elevation shall be provided, if required by the Township.

C. A map showing location, proposed use, and height of all buildings, location of all parking areas, with access and egress drives thereto, location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences, description of method of water supply and sewage disposal and location of such facilities; location and size of all signs; location and design of lighting facilities; and the amount of building area proposed for non-residential uses, if any.

D. A tracing overlay showing all soil types, their location, and those areas, if any, with moderate to high susceptibility to erosion, if required by the Township.

For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation.

6. Required Standards for Approval. Review of the detailed Site Plan shall include the following:

A. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization, traffic controls and pedestrian movement.

B. Location, arrangement, appearance, and sufficiency of off-street parking.

C. Location, arrangement, size and entrance of buildings, walkways and lighting.

D. Relationship of the various uses to one (1) another.

E. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or a noise deterring screen between adjacent uses and adjoining lands.

F. In the case of residential uses, the adequacy of useable open space for playgrounds and recreation.

G. Adequacy of water supply, storm water, and sanitary waste disposal facilities.

H. Adequacy of structures, roadways, and landscaping in areas with moderate to high susceptibility to flooding, ponding, and/or erosion.

I. Compliance with all regulations of the Township Zoning Ordinance.

J. Compatibility of adjoining uses on and off the site and preservation thereof.

K. Other applicable considerations pursuant to Article 4: Conditional Uses.

7. Action on the Detailed Site Plan: The Planning Commission shall promptly recommend approval or disapproval of the Site Plan and so notify the applicant and the Zoning Administrator. The recommendation shall be submitted to the Township Board for its final determination.

ARTICLE 17

KEEPING ANIMALS WITHIN THE TOWNSHIP

17.01 SUPPLEMENTARY DEFINITIONS

1. "Harbor or Keep": The term "harbor or keep" shall include the harboring, keeping, maintaining, or stabling a wild, dangerous, or non-domesticated animal, as hereafter defined.

2. "Wild, dangerous, or non-domesticated animal": A wild, dangerous, or non-domesticated animal is any species of bird, reptile, fish, insect, mammal, or other animal of any type, which species has not been subject to common domestication. Excluded from this definition, by way of example, and not limitation, are domesticated dogs (except pit bull terriers), cats, songbirds, livestock, poultry, non-venomous snakes, and other similar animals which pose no threat to the community or to the neighbors of any person harboring or keeping said animal. Specifically included as a wild, dangerous, or non-domestic animal, by way of example and not by way of limitation are pit bull terriers, lions, tigers, cougars, or other similar members of the large cat family, bears, wolves or wolf-dog hybrids containing at least one-quarter wolf lineage, venomous snakes, and insects or other similar animals not commonly domesticated.

3. "Livestock": Livestock includes (but is not limited to) horses, cattle, hogs, sheep, donkeys, burros, goats, and llamas.

4. "Poultry": Poultry means all domestic fowl, ornamental birds, and game birds possessed or being reared under authority of a breeder's license pursuant to Act No. 191 of the Public Acts of 1929, as amended, being sections 317.71 to 317.84 of the Michigan Compiled laws.

17.02 KEEPING OF DOGS OR CATS WITHIN THE TOWNSHIP

1. For bona fide agricultural operations located in the "AG" Agricultural Zoning District, on lots in excess of twenty (20) acres, any number of cats may be maintained; otherwise on a lot in any zoning district, the following number of cats may be maintained without a kennel conditional use permit: for lots less than five (5) acres, up to two (2) cats; for at least five (5) acres but less than twenty (20) acres, up to three (3) cats; and for twenty (20) or more acres, up to four (4) cats.

2. In any zoning district, the following number of dogs may be maintained on a lot: for up to five (5) acres, up to two (2) dogs may be maintained; for at least five (5) acres but less than twenty (20) acres, up to three (3) dogs may be

maintained; for twenty (20) or more acres, up to four (4) dogs may be maintained.

3. The above referenced rules shall apply only to dogs and cats in excess of four (4) months in age, provided that except for cats located on bona fide agricultural operations located on lots in excess of twenty (20) acres in the "AG" Agricultural District, no person shall keep or maintain more than two (2) litters of dogs and/or cats combined on their lot within any consecutive twelve (12) month period without first obtaining a kennel conditional use permit.

4. Anything in this Section 17.02 to the contrary notwithstanding, no person shall allow their dogs and/or cats to become a nuisance to the public or to their neighbors.

17.03 KEEPING OF WILD, DANGEROUS OR NON-DOMESTICATED ANIMALS WITHIN THE TOWNSHIP

1. No person shall harbor or keep any wild, dangerous, or non-domesticated animal on any lot owned, controlled, and/or possessed by said person, in any zoning district, without having first secured the approval of the Montague Township Board.

2. Any person desiring to keep any wild, dangerous, or non-domesticated animal as set forth above, shall first make application to the Planning Commission for a permit to keep any wild, dangerous, or non-domesticated animal. The method of application for such permit and procedures for the application for such permit, the standards and terms upon which such permit may be granted or denied and all other applicable considerations concerning the issuance of such permit shall proceed as pursuant to the issuance of a conditional use permit as provided in this Ordinance, and particularly Article 4 hereof. Final approval or disapproval is to be granted by the Township Board, upon receipt of a recommendation from the Planning Commission. Provided further, however, that no wild, dangerous, or non-domesticated animal shall be allowed in any "R", "MH", "FR", or "NR" zoning district of the Township.

17.04 LOT LINE SETBACK AND MISCELLANEOUS REGULATIONS

1. The minimum setback line for poultry or livestock shelters, coops, barns, or sheds shall be seventy five (75) feet from the nearest lot line.

2. All livestock, furbearing animals, and poultry shall be properly housed so as not to become a nuisance.

ARTICLE 18

ZONING ORDINANCE AMENDMENTS

This Zoning Ordinance may be amended at any time pursuant to the procedures of the Zoning Enabling Act (Public Act 110 of 2006) as amended, or its successor legislation.

18.01 INITIATION

1. An amendment to the Zoning Map, which is a part of this Ordinance, may be initiated by the Township Board or Planning Commission on a motion by either body, or by an application of one (1) or more of the owners of the property within the area proposed to be changed, or by a person authorized in writing by the property owner to submit such application.

2. An amendment to the text of the Zoning Ordinance may be initiated by the Township Board or Planning Commission on a motion by either body or by an application of any person affected by the provision requested to be changed.

3. The Planning Commission shall at least once per year prepare for the Township Board a report on the administration and enforcement of the Zoning Ordinance and recommendation for amendments or supplements to the Ordinance. **(Amended December 2006.)**

18.02 PROCEDURE FOR CHANGES

1. Applications for Zoning Ordinance Map or text amendments shall be submitted to the Planning Commission upon forms supplied by the Township, along with the following information or materials:

A. A legal description of the property subject to the proposed change to the Zoning Map; or a typewritten copy of the proposed text amendment, including specific references to the portions of the existing Ordinance section and language.

B. A drawing or map showing, at a suitable scale, the property to be changed by an amendment to the Zoning Map and the location of properties within three hundred (300) feet of the property affected by such amendment.

C. Payment of a fee, in accordance with a fee schedule, as determined by the Township Board from time to time.

2. Before submitting its recommendation to the Township Board, the Planning Commission shall hold at least one (1) public hearing and publish and provide required notices of the public hearing as follows:

A. The Planning Commission shall publish notice of the request in a newspaper of general circulation in Montague Township.

B. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in Montague Township.

C. The notice shall be given not less than fifteen (15) days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice shall do all of the following:

(1) Describe the nature of the request;

(2) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used;

(3) State when and where the request will be considered; and

(4) Indicate when and where written comments will be received concerning the request. If an individual property or ten (10) or fewer adjacent properties are proposed for rezoning, the zoning commission shall give a notice of the proposed rezoning in above stated manner.

If eleven (11) or more adjacent properties are proposed for rezoning, the Planning Commission shall give notice of the proposed rezoning in the same manner mentioned above, except for the following:

(a) No notice is required to be given by mail or personal delivery to the owners of property for which the approval is being considered.

(b) No notice is required to be given to persons to whom real property is assessed within 300 feet of the property nor the occupants of all structures within 300 feet of the property.

(c) The listing of all existing street addresses within the property is not required to be listed in the notice.

3. The Planning Commission shall transmit a summary of comments received at the public hearing, along with the recommendation of the Planning

Commission, to the Township Board. The Township Board either enacts or rejects the proposed ordinance amendment. If the Township Board considers departures from the amendment proposed, it may refer the same back to the Planning Commission for a report thereon within a time period specified by the Board.

4. The procedure for making amendments to this Ordinance shall be in accordance with Public Act 110 of 2006, MCL 125.3101 et. seq.

(Amended December 2006.)

18.03 RE-SUBMISSION

Whenever a proposed Zoning Map or text change has not been approved by the Township Board, the Planning Commission shall not reconsider such Map or text change for at least one (1) year following the date of the original application unless the Planning Commission finds that at least one (1) of the following conditions exist:

1. That the conditions involving all of the reasons for the original denial have been significantly altered.

2. That new conditions or circumstances exist which change the nature of the original request.

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ARTICLE 19

VARIANCES

19.01 AUTHORITY TO GRANT VARIANCES

The Zoning Board of Appeals shall have the power to authorize, upon appeal in specific cases, such nonuse variance from the provisions of this Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in practical difficulty. **(Amended December 2006.)**

19.02 CONDITIONS UPON WHICH VARIANCES MAY BE GRANTED

A nonuse variance shall not be granted by the Zoning Board of Appeals unless and until a written application for a variance is submitted, and a hearing thereon held demonstrating all of the following:

1. That conditions and circumstances exist which are peculiar to the land (including but not limited to location, width, depth, shape or topography) or structure involved and which are not applicable to all other lands or structures in the same vicinity. However, this condition does not mean that the peculiar conditions and circumstances must exclusively effect only the applicant's land. Additionally, satisfaction of this condition shall not necessarily require that the property have specific physical characteristics, such as size or topographic peculiarities, that make it unique. "Uniqueness" may be found in changing circumstances, which though applicable to some others in the vicinity of the applicant's land, are not applicable to all others in the vicinity of the applicant's land.

2. The land subject to the variance application cannot reasonably be used in a manner consistent with the literal interpretation of the applicable provisions of this Ordinance. For property used in a trade or business or held for the production of income, this condition may be satisfied if the applicant can establish that the applicant could not receive a reasonable economic return for the property under a literal interpretation of the Ordinance provisions applicable to the land.

3. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and in the same vicinity under the terms of this Ordinance.

4. That the special conditions and circumstances do not result from the actions of the applicant, notwithstanding other provisions of this Ordinance.

5. That granting the variance will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same vicinity.

(Amended December 2006.)

19.03 ADDITIONAL CONDITIONS

In addition to the requirements of the proceeding section, the following provisions shall all apply.

1. No grant of a variance shall be authorized unless the Zoning Board of Appeals specifically finds that the condition or situation of the specific piece of property is not of so general or recurrent as to make reasonably practicable the formulation as a part of this Ordinance, a general regulation for such condition or situation.

2. A non-conforming use of land, structure, or building shall not solely constitute grounds for the issuance of a variance.

3. The variance requested shall be the minimum variance that will make possible the reasonable use of the land, building, or structure.

4. The variance will not alter the essential character of the general locality in which the applicant's land is located. In considering the essential character of the general locality, the Zoning Board of Appeals need not focus solely on the immediate neighboring properties, but may take a more expansive view of the general locality.

5. The granting of the variance shall be in harmony with the intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise, detrimental to the public interest.

(Amended December 2006.)

19.04 CONDITIONAL GRANT OF VARIANCES

In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards, which shall thereupon be deemed a part of the terms under which the variance is granted. Any subsequent violation of such terms and conditions shall be deemed a violation of this Ordinance. Also see Section 15.12 regarding performance guarantees.

19.05 HEARINGS ON VARIANCE APPLICATIONS

1. No variance shall be granted until a public hearing is first held, upon such notice, terms, and procedures as follows:

A. Following receipt of a written application concerning a request for a variance, the Zoning Board of Appeals shall fix a reasonable time for the hearing of the request and shall publish notice of the request in a newspaper of general circulation in Montague Township.

B. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in Montague Township.

C. The notice shall be given not less than fifteen (15) days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification. The notice shall do all of the following:

(1) Describe the nature of the request;

(2) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such assesses currently exist within the property. If there are no street addresses, other means of identification may be used;

(3) State when and where the request will be considered; and

(4) Indicate when and where written comments will be received concerning the request.

(Amended December 2006.)

19.06 TERMINATION AND ABANDONMENT OF VARIANCES

1. Each variance granted under the provisions of this Ordinance shall become null and void unless the construction or occupancy authorized by such variance or permit has been commenced within one hundred eighty (180) days after the granting of such variance and pursued diligently to completion.

2. Any non-use of a variance previously granted, for a period of one (1) year or more, shall result in such variance being terminated.

(Amended December 2006.)

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ARTICLE 20

WIRELESS TELECOMMUNICATION TOWERS AND ANTENNAS

20.01 PURPOSE

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

1. Protect residential areas and land uses from potential adverse impacts of towers and antennas;
2. Strictly limit the location of towers in and to non-residential areas;
3. Minimize the total number of towers throughout the Township;
4. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
5. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
6. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, locating, landscape screening, and innovative camouflaging techniques;
7. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
8. Consider the public health and safety relative to communication towers;
9. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

20.02 SUPPLEMENTARY DEFINITIONS

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

1. "Alternative tower structure" means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

2. "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

3. "Backhaul network" means the lines that connect a provider's towers/cell sites to one (1) or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

4. "FAA" means the Federal Aviation Administration.

5. "FCC" means the Federal Communications Commission.

6. "Height" means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

7. "Preexisting towers and preexisting antennas" mean any existing tower or antenna, including permitted towers or antennas that have not yet been constructed.

8. "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

20.03 APPLICABILITY; EXCEPTIONS

All new towers and antennas in the Township of Montague shall be subject to these regulations, except as provided in Subsections 2 through 4 below.

1. Amateur Radio Station Operators/Receive Only Antennas. This Ordinance shall not govern any tower, or the installation of any antenna, that is under fifty (50) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

2. Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this Ordinance, other than the requirements of Subsection 20.04(6) and (7).

4. AM Array. For purposes of implementing this Ordinance, an AM array, consisting of one (1) or more tower units and supporting ground system which

functions as one (1) AM broadcasting antenna, shall be considered one (1) tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers include in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

20.04 GENERAL REQUIREMENTS APPLICABLE TO ALL NEW TOWERS AND ANTENNAS

1. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

2. Lot size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setbacks requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

3. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of Montague Township or within one (1) mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Administrator may share such information with other applicants applying for administrative approvals or special use permits under this Ordinance or other organizations seeking to locate antennas within the jurisdiction of Montague Township, provided, however that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

4. Aesthetics and Construction. Towers and antennas shall meet the following requirements:

A. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

B. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

C. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure

so as to make the antenna and related equipment as visually unobtrusive as possible.

D. Metal towers shall be constructed with a corrosion-resistant material.

5. Lighting. Towers shall not be artificially lighted, except as required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding areas.

6. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local construction codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, Montague Township concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the tower/antenna and/or lot owner's expense.

7. Signs. No signs shall be allowed on an antenna or tower.

8. Multiple Antenna/Tower Plan. Montague Township encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna site. Applications for approval of multiple sites shall be given priority in the review process.

9. No interference. Towers and antennas shall not interfere with television or radio reception on surrounding properties.

20.05 PERMITTED USES/AREAS

The uses in this section are deemed to be permitted uses and shall not require a conditional use permit.

1. Antennas or towers located on property owned, leased, or otherwise controlled by Montague Township provided a license or lease authorizing such antenna or tower has been approved by Montague Township, provided that the said property is not zoned "R" Residential. This provision shall not be interpreted to require the Township to approve a license or lease.

2. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or

antenna, in any Agricultural, Industrial or Commercial zoning district. Also see Section 20.07(6) of other zoning districts.

3. Locating antennas on existing structures or towers consistent with the terms of paragraphs A and B below:

A. Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial, professional, institutional structure provided: the antenna does not extend more than thirty (30) feet above the highest point of the structure; the antenna complies with all applicable FCC and FAA regulations; and the antenna complies with all applicable construction codes.

B. Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the Zoning Administrator, and to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one (1) carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

(i) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.

(ii) an existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna. The height change referred to in subparagraph (b)(I) may only occur one (1) time per tower.

20.06 RELOCATION OF EXISTING TOWERS

1. A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.

2. After the tower is rebuilt to accommodate collocation, only one (1) tower may remain on the site.

3. A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers.

4. The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands shall only be permitted when approved by the Zoning Administrator.

20.07 CONDITIONAL USE PERMITS/AREAS

The following provisions shall govern the application for and issuance of special use permits for towers or antennas which are not permitted under Section 20.05.

1. Applications for conditional use permits under this Subsection shall be subject to the procedures and requirements of Article 4 of the Zoning Ordinance, except as modified in this section.

2. In granting a conditional use permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

3. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer. Such an engineer shall certify that the tower or antennas will be structurally sound and will comply with all applicable building and other construction does requirements.

4. In addition to any information required for applications for conditional use permits pursuant to Article 4 of the Ordinance, applicants for a special use permit for a tower shall submit the following information:

A. A scaled site plan clearly indicating the location, type, and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), adjacent streets, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Township to be necessary to assess compliance with this Ordinance.

B. Legal description of the parent tract and leased parcel (if applicable).

C. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

D. The separation distance from other towers. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing towers, if known.

E. A landscape plan showing specific landscape materials.

F. Method of fencing, and finished color and, if applicable, the method of camouflaging and illumination.

G. A description of compliance with applicable provisions of this Ordinance and all applicable federal, state or local laws.

H. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.

I. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Township.

J. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

5. Factors Considered in Granting Conditional Use Permits for Towers. In addition to any standards for consideration of conditional use permit applications pursuant to Article 4 of the Ordinance, the Planning Commission shall consider the following factors in determining whether to issue a special use permit, although the Planning Commission may waive or reduce the burden on the applicant of one (1) or more of these criteria if the Planning Commission concludes the goals of this Ordinance are better served thereby:

A. Height of the proposed tower;

B. Proximity of the tower to residential structures and residential district boundaries;

C. Nature of uses on adjacent and nearby properties;

D. Surrounding topography.

E. Surrounding tree coverage and foliage;

F. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

G. Proposed ingress and egress; and,

H. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.

I. The applicant shall demonstrate to the Planning Commission that no reasonable alternative sites are available for the proposed communication tower.

6. Communication towers may not be located in the following zoning districts: Residential, Natural River or Mobile Home; with a conditional use permit, they may be located in Forestry Recreational zoning districts.

7. Availability of Suitable Existing Towers, Other Buildings or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, building or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's property antennas may consist of any of the following:

A. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.

B. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

C. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

D. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

E. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

F. The applicant demonstrates that there are other limiting factors than render existing towers and structures unsuitable.

G. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as cable microcell network using multiple low-powered transmitters/receivers attached to a wireless system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

A. Tower facilities shall be landscaped with a buffer of plant material that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

B. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

C. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

20.09 ANTENNAS ON BUILDINGS OR OTHER EQUIPMENT

1. Antennas Mounted on Structures or Rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:

A. The cabinet or structure shall not contain more than two hundred (200) square feet of gross floor area or be more than nine (9) feet in height. In addition, for buildings and structures which are less than sixty (65) feet in height, the related unmanned equipment structure, if over two hundred (200) square feet of gross floor area or nine (9) feet in height, shall be located on the ground and shall not be located on the roof of the structure.

B. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than twenty (20) percent of the roof area.

C. Equipment storage buildings or cabinets shall comply with all applicable building codes.

2. Antennas Mounted on Utility Poles or Light Poles. The equipment cabinet or structure used in association with antennas shall be no greater than six (6) feet in height and sixty four (64) square feet in gross floor area. The structure or cabinet shall be screened from view of all residential properties which abut and any street or parking lots by evergreen trees with minimum height of twelve (12) inches higher than the cabinet or structure and planted no more than eight (8) feet apart from the next tree, measuring tree center to tree center, or shall be screened with planted shrubs with a minimum height of twelve (12) inches higher than the cabinet or structure planted in two (2) rows in a staggered pattern, planted on further than six (6) feet apart.

3. Antennas Located on Towers. The related unmanned equipment structure shall not contain more than two hundred (200) square feet of gross floor area or be more than eleven (11) feet in height, and shall be located in

accordance with the minimum yard requirements of the zoning district in which located. The structure or cabinet shall be screened from view of all residential properties which abut by evergreen trees with a height of eight (8) feet and planted no more than eight (8) feet apart from the next tree, measuring tree center to tree center, or shall be screened with planted shrubs exceeding six (6) feet in height planted in two (2) rows in a staggered pattern, planted no further than six (6) feet apart.

4. Modification of Building Size Requirements. The requirements of Subsections (1) through (3) above may be modified by the Zoning Administrator in the case of administratively approved uses or by the Planning Commission in the case of uses permitted by conditional use to encourage collocation.

20.10 REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower or lot upon which it is located shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the tower/antenna and/or lot owners' expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

20.11 NONCONFORMING USES

1. No Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

2. Preexisting Towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this Ordinance.

3. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or special use permit and without having to meet applicable separation requirements. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred eighty (180) days from the date the facility is

damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Subsection 20.10.

ARTICLE 21

REGULATION OF SEXUALLY ORIENTED BUSINESSES

Preamble: Sexually oriented businesses require special supervision in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens and property values of the communities where such businesses locate;

The Township Planning Commission and Township Board determine that sexually oriented businesses may sometimes be used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature;

Concern over sexually transmitted diseases is a legitimate health concern of the Township, that requires reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens;

Licensing is a legitimate means of accountability to ensure that operators of sexually oriented businesses comply with reasonable regulations, and to ensure that such operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitations;

There is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses and residential areas adjacent to them, causing increased crime and the downgrading of property values;

It is recognized that sexually oriented businesses, due to their nature, have objectionable operational characteristics, particularly when they are located in proximity to each other, thereby contributing to blight and downgrading the quality of life in the adjacent area;

The Township Board desires to prevent these adverse effects and thereby protect the health, safety and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of blight;

It is not the intent of this Ordinance to suppress any speech activities protected by the First Amendment, but instead to enact a content neutral ordinance that addresses the secondary effects of sexually oriented businesses, as well as the potential health problems associated with such businesses.

21.01 PURPOSE AND FINDINGS

1. It is the purpose of this Ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Township. The provisions of this Ordinance shall have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials (except for public nudity as defined hereafter), including sexually oriented materials. Similarly, it is not the intent nor effect of this Ordinance to deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene materials.

2. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in studies, informational materials, hearings, and in reports made available to the Township Planning Commission and the Township Board, and on findings incorporated in the cases of California v LaRue, 409 U.S. 109 (1972), City of Renton v Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v American Mini Theatres, 426 U.S. 50 (1976), and Barnes v Glen Theatre, Inc. 501 U.S. 560 (1991), and on studies conducted in other cities, the Township Planning Commission and Township Board determines:

A. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that may be uncontrolled by the operators of such establishments. Further, there is presently no mechanism within the Township to make operators of these establishments responsible for the activities that occur on their premises.

B. Sexual acts, including masturbation, and oral and anal sex, may occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

C. Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions.

D. Some persons may frequent certain adult theaters, adult arcades, and other sexually oriented businesses, for the purpose of engaging in sex within the premises of such sexually oriented businesses.

E. Some sexually transmitted diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, chlamydia, trichomoniasis, and human, papilloma virus ("HPV").

F. The annual number of new HIV cases in the U.S. has risen to the level of approximately 20,000 infections per year acquired through sexual transmission.

G. As of 1996, there are approximately 500,000 cases of AIDS in the U.S., acquired through sexual transmission.

H. The number of cases of syphilis in the United States reported annually is approximately 70,000 as of 1996.

I. The number of cases of gonorrhea in the United States reported annually is approximately 650,000 as of 1996.

J. The number of cases of chlamydia in the United States reported annually is approximately 3,000,000 as of 1996.

K. The number of cases annually of HPV in the United States reported is approximately 5,000,000 as of 1996.

L. The surgeon general of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.

M. According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

N. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the operators of the facilities to self-regulate those activities and maintain those facilities.

O. The total number of cases in the United States of herpes currently stands at approximately 45,000,000, of HPV approximately 20,000,000, and of hepatitis B approximately 750,000.

P. The findings noted in paragraphs lettered A through O raise substantial governmental concerns.

Q. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect substantial governmental concerns.

R. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the operators of sexually oriented businesses. Further, such a licensing procedure would place a heretofore non-existent incentive on the operators to see that a sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the Township. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

S. Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

T. The disclosure of certain information by persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

U. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this Ordinance is designed to prevent or who are likely to be witnesses to such activity.

V. The fact that an applicant for an adult use license has been convicted of a sex-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention to this Ordinance.

W. The barring of such individuals from operation or employment in sexually oriented businesses serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

X. The general welfare, health, morals, and safety of the citizens of this Township will be promoted by the enactment of this Ordinance.

Y. The Township currently has no sexually oriented businesses, so it is not possible to examine negative secondary effects from the operation of such businesses within the Township. However, there exist numerous studies conducted by other municipalities throughout the U.S., which municipalities do have sexually oriented businesses, concerning the effects of such sexually oriented businesses within such municipalities.

Z. The Township may reasonably rely upon such studies and assume that the negative secondary effects almost uniformly reported in such studies would

be present within the Township in the event that sexually oriented businesses entered the Township and were allowed to operated unregulated.

AA. That the Township has relied upon studies or summaries of studies from the following municipalities: Phoenix, AZ dated 5/25/79; Garden Grove, CA dated 9/12/91; Los Angeles, CA dated 6/77; Whittier, CA dated 1/9/78; Indianapolis, IN dated 2/84; Minneapolis, MN dated 10/80; Oklahoma City, OK dated 3/3/86; Austin, TX dated 5/9/86; Houston, TX dated 11/3/83; and Lansing, MI dated 4/88.

BB. That such studies reveal a pattern of occurrence of the following negative secondary effects from the operation of sexually oriented businesses, as compared to similar areas without sexually oriented businesses: increased crime, especially when there exist more than one (1) sexually oriented business in close proximity to each other; either decreased property values or property values which increase at a lower rate than similar areas without sexually oriented businesses (especially for residential properties); increased building occupancy turn-over rate, difficulties of businesses in attracting employees; and decrease in the rate of owner occupied structures.

CC. That the foregoing provisions would allow sexually oriented businesses to locate and operate in at least four (4) different commercially zoned areas within the Township, which is commensurate with the limited commercial areas located within the Township, based upon the Township's largely suburban and rural setting.

21.02 DEFINITIONS

1. ADULT ARCADE means any place to which the public is permitted or invited wherein, for consideration paid or promised to be paid, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

2. ADULT BOOKSTORE or ADULT VIDEO STORE means a commercial establishment that, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:

A. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or

B. Instruments, devices, or paraphernalia that are designed for use in connection with “specified sexual activities”.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as ADULT BOOKSTORE or ADULT VIDEO STORE. Such other business purposes shall not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE or ADULT VIDEO STORE so long as one (1) of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe “specified sexual activities” or “specified anatomical areas”. A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

3. ADULT CABARET means a nightclub, bar, restaurant, theater, auditorium, or similar commercial establishment that regularly features:

A. Films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or

B. Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

4. ADULT MOTEL means a hotel, motel, or similar commercial establishment that:

A. Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and which also has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or

B. Offers a sleeping room for rent for a period of time that is less than twenty four (24) hours; or

C. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty four (24) hours.

5. ADULT MOTION PICTURE THEATER means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that

are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”;

6. DIRECTOR means the Township’s Zoning Administrator or an authorized agent thereof.

7. EMPLOYEE means a person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. “Employee” does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does “employee” include a person exclusively on the premises as a patron or customer.

8. ESCORT means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

9. ESCORT AGENCY means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one (1) of its primary business purposes for a fee, tip, or other consideration.

10. LICENSED DAY-CARE FACILITY means a facility licensed by the State of Michigan, pursuant to PA 116 of 1973; MCL 722.111, MSA 25.348(11), et. seq.

11. LICENSEE means a person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.

12. NUDE MODEL STUDIO means any place where a person who appears in a state of nudity or displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.

13. NUDITY, PUBLIC NUDITY or a STATE OF NUDITY means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual’s genitals or anus with less than a fully opaque covering, or a female person’s breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

A. A woman’s breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

B. Material as defined in Section 2 of Act No. 343 of the Public Acts of 1984, being Section 752.362 of the Michigan Compiled Laws.

C. Sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being Section 622.673 of the Michigan Compiled Laws.

D. Any display of a person's genitals or anus, or of a female person's breast, which occurs as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the State of Michigan.

14. PERSON means an individual, proprietorship, partnership, corporation, limited liability company, association, or other legal entity.

15. PREMISES means the lot upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to Section 2104 of this Ordinance;

16. SEXUAL ENCOUNTER CENTER means a business or commercial enterprise that, as one (1) of its principal business purposes, offers for any form of consideration:

A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

B. Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nude.

17. SEXUALLY ORIENTED BUSINESS means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

18. SPECIFIED ANATOMICAL AREAS means less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and human male genitals in a discernible turgid state, even if completely and opaquely covered.

19. SPECIFIED CRIMINAL ACTIVITY means any of the following offenses:

A. Prostitution or promotion of prostitution; dissemination of obscenity; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; distribution of a controlled substance; or any similar offenses to those described above under the Michigan or U.S. criminal codes.

B. For which:

(i) less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(ii) less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense;

(iii) less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty four (24) month period.

C. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

20. SPECIFIED SEXUAL ACTIVITIES means human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

21. TRANSFER OF OWNERSHIP OR CONTROL of a sexually oriented business means and includes any of the following:

A. The sale, lease, or sublease of the business;

B. The transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or

C. The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

21.03 CLASSIFICATION

Sexually oriented businesses are classified as follows:

1. Adult arcades
2. Adult bookstores or adult video stores
3. Adult cabarets
4. Adult motels
5. Adult motion picture theaters
6. Escort agencies
7. Nude model studios, and/or,
8. Sexual encounter centers.

21.04 BUSINESS LICENSE/EMPLOYEE REGISTRATION REQUIRED

1. It shall be unlawful:

A. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the Director pursuant to this Ordinance;

B. For any person who operates a sexually oriented business to employ an employee to work and/or perform services for the sexually oriented business, if such employee has not registered with the Director pursuant to this Ordinance;

C. For any person to obtain employment with a sexually oriented business if such employee has not registered with the Director pursuant to this Ordinance or if such employee has previously been convicted of a specified criminal activity as defined by this Ordinance.

2. An application for a sexually oriented business license shall be made to the Director. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or

minus six (6) inches. Prior to issuance of a license, the premises shall be inspected by the Director.

3. All applicants for a license shall be qualified according to the provisions of this Ordinance. The application may request, and the applicant shall provide, such information as to enable the Township to determine whether the applicant meets the qualifications established under this Ordinance.

4. If a person who desires to own and/or operate a sexually oriented business is other than one (1) individual, each individual who has a ten percent (10%) or greater interest in the person shall sign the application for a business license.

5. Applications for a business license, whether original or renewal, shall be made to the Director by the intended operator of the enterprise. Applications shall be submitted to the Director or the Director's designee. The following information shall be provided on the application:

A. The name, street address (and mailing address if different) of each applicant(s);

B. A recent photograph of the applicant(s);

C. Each applicant's driver's license number, social security number, and/or federally issued tax identification number;

D. The name under which the sexually oriented business is to be operated and a general description of the services to be provided;

E. Whether any applicant has been convicted of a specified criminal activity as defined in this Ordinance, and, if so, the specified criminal activity involved, place, and jurisdiction of each;

F. Whether the applicant(s) has had a previous license under this Ordinance or similar sexually oriented business ordinance from another municipality denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation; and whether the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation or other legal entity that is licensed under this Ordinance whose business license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked as well as the date of denial, suspension or revocation;

G. Whether the applicant(s) holds any other licenses under this Ordinance or other similar sexually oriented business ordinance from another municipality, and if so, the names and locations of such other licensed businesses;

H. The single classification of license, as found in Section 2103, for which the applicant is filing;

I. The telephone number of the establishment;

J. The address, and the legal description of the lot on which the sexually oriented business is to be located;

K. The expected startup date (which shall be expressed in number of days from the date of issuance of the business license).

6. Each application for a business license shall be accompanied by the following:

A. Payment of the application fee in full;

B. If the person is other than an individual, a certificate showing that the person is in good standing and currently validly in existence, and if the person is not formed under the laws of this state, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;

C. Proof of the current ownership of the lot on which the sexually oriented business is to be situated in the form of a copy of the recorded deed or land contract memorandum.

D. If the persons identified as the owner(s) of the lot in item 3 are not also the applicant(s), appropriate documents evidencing the legally enforceable right of the proposed licensee of the sexually oriented business to have or obtain the use and possession of the lot for which the license is being sought.

E. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within one thousand (1,000) feet of the lot on which the sexually oriented business is to be operated; and the property lines of any established religious institution/synagogue, licensed day care facility, school, or public park or recreation area within one thousand (1,000) feet of the lot on which the sexually oriented business is to be operated. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted. These requirements may be waived in whole or in part by the Director if there clearly is no such entity within one thousand (1,000) feet of the said lot.

F. Any of items (B) through (E) above shall not be required for a renewal application to the extent that the applicant states that the documents previously furnished the Director with the original application or previous renewals thereof remain correct and current.

7. Employee registration to work in a sexually oriented business must be made to the Director. Each employee/registrant shall be required to give the following information:

A. The applicant's given name, and any other names by which the applicant is or has been known, including "stage" names and/or aliases;

B. Age, social security number, and date and place of birth;

C. Present residence address and telephone number;

D. Present business address and telephone number;

E. Date, issuing state, and number of photo driver's license, or other state issued identification card information;

F. Proof that the individual is at least eighteen (18) years old;

G. A statement whether the applicant has been convicted of a specified criminal activity as defined in this Ordinance and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

8. Every application for a license shall contain a statement that the applicant has personal knowledge of the information contained in the application, and that the information contained therein and furnished therewith is true and correct.

9. A separate application and business license shall be required for each sexually oriented business classification.

10. The fact that a person possesses other types of state, county, or township permits and/or licenses does not exempt the person from the requirement of obtaining a sexually oriented business license.

21.05 ISSUANCE OF LICENSE

1. The Director shall approve the issuance of a license to an applicant within twenty-one (21) days after receipt of an application unless one (1) or more of the following is true:

- A. An applicant is under eighteen (18) years of age.
 - B. An applicant is overdue in payment to the Township of taxes, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually oriented business.
 - C. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
 - D. An applicant has been convicted of a “specified criminal activity” as defined in this Ordinance.
 - E. If the premises are to be used for a purpose prohibited by local or state law, statute, rule, or regulation, or prohibited by or contrary to a provision of this Zoning Ordinance.
 - F. An applicant has had a sexually oriented business license revoked by the Township within two (2) years of the date of the current application.
 - G. If the lot or premises to be used for the sexually oriented business have not been approved by the Township Building Inspector and Zoning Administrator as being in compliance with applicable laws and ordinances.
 - H. The license fee required by this Ordinance has not been paid.
2. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business, and the classification for which the license is issued. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.
 3. A sexually oriented business license shall issue for only one (1) classification, as found in Section 21.03. However, one (1) person may obtain more than one (1) type of license per each premises operated by the person.
 4. In the event that the Director determines that an applicant is not eligible for a license, the applicant shall be given notice in writing of the reasons for the denial within twenty-one (21) days of the receipt of its application by the Director, provided that the applicant may request, in writing, that such period be extended for an additional specified period of time before the notice is issued in order to make modifications necessary to comply with this Ordinance.
 5. Pursuant to MSA 5.2963(20), MCL 125.290, an applicant or licensee or employee may appeal any decision of the Director to the Township Zoning Board of Appeals, by filing a written notice of appeal with the Director or Township Clerk

within thirty one (30) days after service of notice upon the applicant of the Director's decision. Such appeal shall be heard and a vote shall be taken by the Zoning Board of Appeals within fourteen (14) calendar days after the date on which the Township receives the notice of appeal. The decision of the Zoning Board of Appeals shall be communicated to the Applicant within three (3) business days. Appeals may be taken from the decision of the Zoning Board of Appeals pursuant to law; MCL 125.3702 et. Seq. within thirty (30) days after the decision by the Zoning Board of Appeals. **(Amended December 2006.)**

21.06 INSPECTIONS

A licensee or their employee shall permit the Director and representatives of the Muskegon County Sheriff's Department and/or Health Department, Fire Department, Township Zoning Department, or other Township or State departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is open for business.

21.07 EXPIRATION OF LICENSE

Each license shall expire two (2) years from the date of issuance and may be renewed only by making a renewal application as provided for an original license in Section 21.04. Application for renewal shall be made at least twenty-one (21) days before the expiration date; when made less than twenty-one (21) days before the expiration date, the expiration of the license shall not be affected.

21.08 SUSPENSION OF LICENSE

The Director shall suspend a license for a period not to exceed thirty (30) days if he/she determines that licensee or an employee of licensee has committed or allowed any of the following to occur:

1. violated or is not in compliance with any section of this Ordinance;
2. operated or performed services in a sexually oriented business while intoxicated by the use of alcoholic beverages or controlled substances;
3. refused to allow prompt inspection of the premises as authorized by this Ordinance;
4. knowingly permitted gambling by any person on the premises.

21.09 PROHIBITED ACTS; REVOCATION OF LICENSE

1. The Director shall revoke a license if:

A. A cause of suspension in Section 2108 occurs and the license has been suspended within the proceeding twelve (12) months.

B. a licensee gave false or misleading information in the material submitted during the application process;

C. a licensee has knowingly allowed the possession, use, or sale of controlled substances on the premises;

D. a licensee has knowingly allowed the sale, use, or consumption of alcoholic beverages on the premises;

E. a licensee has knowingly allowed prostitution on the premises;

F. a licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

G. a licensee knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the licensed premises;

H. a licensee is delinquent in payment to the Township for any taxes or fees;

I. a licensee knowingly allowed a person under eighteen (18) years of age to enter the establishment; or

J. a licensee has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-licensee.

K. a licensee has appeared or knowingly allowed another person to appear in a state of public nudity within the premises.

2. When the Director revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation became effective.

21.10 JUDICIAL REVIEW

In addition to the remedies provided in Section 2105(F), an applicant or licensee or employee aggrieved by the decision of the Director or the Zoning Board of Appeals may seek judicial review of such administrative action in any court of competent jurisdiction.

21.11 NO TRANSFER OF LICENSE

A licensee shall not transfer ownership or control of a sexually oriented business except and unless authorized by this Ordinance, which shall require a new application to be filed for the purchaser or transferee. A licensee shall not transfer a license to another person, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the location designated in the application.

21.12 LOCATION OF SEXUALLY ORIENTED BUSINESS

A sexually oriented business shall only be permitted in the Township commercial zoning district provided that:

1. The sexually oriented business may not be operated within one thousand (1,000) feet of:

- A. a church, synagogue or regular place of religious worship;
- B. a public or private elementary or secondary school;
- C. a licensed day-care facility;
- D. another sexually oriented business.

2. For the purposes of this Ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected licensed day care facility.

21.13 NONCONFORMING USES

A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of sexually oriented business license, of a church, synagogue, or regular place of religious worship, public or private elementary or secondary school, licensed day-care facility, public park, or residential district within one thousand (1,000) feet of the sexually oriented business. This provision applies only to the renewal of a valid business license, and does not apply when an application for a business license is submitted after a business license has expired or has been revoked.

21.14 ADDITIONAL REGULATIONS FOR INDIVIDUALS AT SEXUALLY ORIENTED BUSINESSES

No person shall knowingly and intentionally appear in a state of nudity in a sexually oriented business, or depict specified sexual activities in a sexually oriented business. No person who operates a sexually oriented business shall employ any employee who has been convicted of a specified criminal activity, as defined in this Ordinance. No person shall obtain employment with a sexually oriented business if such employee has been convicted by a specified criminal activity, as defined in this Ordinance.

21.15 ADDITIONAL REGULATIONS FOR ADULT MOTELS

1. Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a reputable presumption that the enterprise is an adult motel as that term is defined in this chapter.

2. A person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually oriented business license, shall not rent or subrent a sleeping room to another person and, within ten (10) hours from the time the room is rented, rent or subrent the same sleeping room again.

3. For purposes of Subsection (B) of this section the terms “rent” or “subrent” mean the act of permitting a room to be occupied for any form of consideration.

21.16 ADDITIONAL REGULATIONS FOR ESCORT AGENCIES

1. An escort agency shall not employ any person under the age of eighteen (18) years.

2. A person shall not act as an escort or agree to act as an escort for any person under the age of eighteen (18) years.

21.17 ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS

1. A nude model studio shall not employ any person under the age of eighteen (18) years.

2. A person shall not appear in a state of nudity, or knowingly allow another to appear in a state of nudity in an area of nude model studio premises which can be viewed from the public right-of-way.

3. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

21.18 ADDITIONAL REGULATIONS FOR EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS, AND LIVE PERFORMANCES

A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, other video production, or live performance that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

1. Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed one hundred (100) square feet of floor area. The diagram shall also designate the place at which the business license shall be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus one (1) foot. The Director may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not be altered since it was prepared.

2. No alteration in the configuration or location of a manger's station may be made without the prior approval of the Director or their designee.

3. It is the duty of the licensee to ensure that at least one (1) employee is on duty and situated in each manager's station at all times (except in emergency situations) that any patron is present inside the premises.

4. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access

for any purpose from at least one (1) of the manger's stations. The view required in this subsection must be by direct line of sight from the manager's station.

5. It shall be the duty of the licensee to ensure that the view area specified in Subsection (A) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application.

6. No viewing room or booth may be occupied by more than one (1) person at any time. Nor shall any viewing room or booth contain any door, barrier, or other similar device as would prevent the compliance with subparagraph (4) above.

7. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at any illumination of not less than five (5.0) foot-candle as measured at the floor level.

8. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

9. No licensee shall allow an opening of any kind to exist between viewing rooms or booths.

10. No person shall make or attempt to make an opening of any kind between the viewing booths or rooms.

11. The licensee of the sexually oriented business shall, during each business day, cause to be inspected the walls between the viewing booths to determine if any openings or holes exist.

12. The licensee of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

13. The licensee of the sexually oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty eight (48") inches of the floor.

21.19 EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES

1. It shall be unlawful for a licensee of a sexually oriented business to allow the merchandise or operations of the business to be visible from a point outside the exterior of the structure in which the business is conducted.

2. It shall be unlawful for the licensee of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this Zoning Ordinance.

21.20 PERSONS YOUNGER THAN EIGHTEEN PROHIBITED FROM ENTRY; ATTENDANT REQUIRED.

1. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.

2. It shall be the duty of the licensee to ensure that an employee is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented businesses' regular business hours. It shall be the duty of the employee to prohibit any person under the age of eighteen (18) years from entering the sexually oriented business.

21.21 HOURS OF OPERATION

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock a.m. (1:00 a.m.) and eight o'clock a.m. (8:00 a.m.).

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