

MONTAGUE TOWNSHIP
NOTICE OF ADOPTION OF THE FIRST AMENDMENT
TO THE MONTAGUE TOWNSHIP ZONING ORDINANCE

ALL PERSONS PLEASE TAKE NOTICE that the Montague Township Board adopted the following First Amendment to the Montague Township Zoning Ordinance, by adding the following subsection to section 3.52. of the zoning ordinance.

3.52.8 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.

This amended provision of the Montague Township zoning ordinance shall take effect 7-days after publication of Notice of Adoption of this provision.

Wesley J. Weesies, Township Clerk

AFFIDAVIT OF PUBLICATION

State of Michigan

In the Matter of Montague Township - Notice of Adoption of First Amendment, etc.

COUNTY OF MUSKEGON

ss.

**Montague Township
NOTICE OF ADOPTION OF
THE FIRST AMENDMENT TO
THE MONTAGUE TOWNSHIP
ZONING ORDINANCE**

All persons please take notice that the Montague Township Board adopted the following First Amendment to the Montague Township Zoning Ordinance, by adding the following subsection to Section 3.52 of the zoning ordinance.

3.52.8 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.

This amended provision of the Montague Township Zoning Ordinance shall take effect 7 days after publication of Notice of Adoption of this provision.

Wesley J. Weesies,
Township Clerk

Gregory N. Means

being first duly sworn, says that he is the editor of The White Lake Beacon, a newspaper published in the English language for the dissemination of local or transnational news and intelligence of a general character and legal nature which is a duly qualified newspaper, and that annexed hereto is a copy of a certain order taken from said newspaper which the order was published on the following dates:

March 23, 2003, 20

 , 20 , 20

 , 20 , 20

Gregory N. Means

Subscribed and sworn to before me this first
day of April, 2003

Karen L. Henderson Karen L. Henderson
Notary Public, Muskegon County, Michigan

My commission expires February 17, 2006

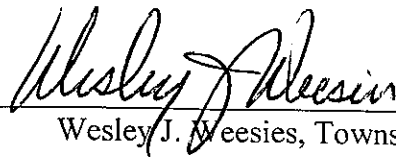
MONTAGUE TOWNSHIP
Second (2nd) AMENDMENT TO THE
MONTAGUE TOWNSHIP ZONING ORDINANCE

The Montague Township Board hereby adopts the following Second (2nd) Amendment to the Montague Township Zoning Ordinance adopted March 3, 2004:

3.04 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.

This amended provision of the Montague Township zoning ordinance shall take effect 7-days after publication of Notice of Adoption of this provision.

Dated: 4-13, 2004


Wesley J. Weesies, Township Clerk

AFFIDAVIT OF PUBLICATION

State of Michigan

In the Matter of Montague Township - Notice of Adoption of the second amendment

COUNTY OF MUSKEGON _____ SS.

Montague Township
**NOTICE OF
ADOPTION
OF THE SECOND (2ND)
AMENDMENT**
to the Montague Township
Zoning Ordinance

All persons please take notice that the Montague Township Board adopted the following Second (2nd) Amendment to the Montague Township Zoning Ordinance, by adding the following subsection to Section 3 of the zoning ordinance:

3.04 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.

This amended provision of the Montague Township Zoning Ordinance shall take effect seven (7) days after publication of Notice of Adoption of this provision.

Wesley T. Weesies

Gregory N. Means

being first duly sworn, says that he is the editor of The White Lake Beacon, a newspaper published in the English language for the dissemination of local or transmitted news and intelligence of a general character and legal news, which is a duly qualified newspaper, and that annexed hereto is a copy of a certain order taken from said newspaper, in which the order was published on the following dates:

April 25 _____, 20 04 _____, 20 _____
_____, 20 _____, 20 _____
_____, 20 _____, 20 _____

Gregory N. Means
Subscribed and sworn to before me this twentyseventh
day of April, 20 04
Karen L. Henderson Karen L. Henderson
Notary Public, Muskegon County, Michigan

My commission expires February 17, 2006

MONTAGUE TOWNSHIP
THIRD (3rd) AMENDMENT TO THE
MONTAGUE TOWNSHIP ZONING ORDINANCE

The Montague Township Board hereby adopts the following Third (3rd) Amendment to the Montague Township Zoning Ordinance:

The foregoing subsection is added, as a conditional use in the residential ("R") zoning district, to Section 3.13 of the zoning ordinance:

3.13.13. The use of a lot with frontage on White Lake for "keyhole access" as set forth on Section 4.31 of this ordinance.

The foregoing section is added to Section 4.31 of the zoning ordinance:

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.

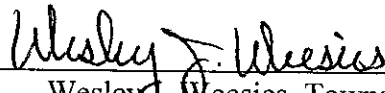
3. Owners of lots having the legal right to keyhole access over a lakefront lot shall be located in a common development all of which lots shall be south of Old Channel Trail and contiguous with each other and the keyhole access lot. Further, only the owners of such lots may become members of the legal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

This amended provision of the Montague Township zoning ordinance shall take effect 7-days after publication of Notice of Adoption of this provision.

Dated: 5-11, 2004


Wesley J. Weesies, Township Clerk

CLERK'S CERTIFICATION

The foregoing third amendment to the Montague Township Zoning Ordinance was adopted by the Montague Township Board on May 11, 2004.

Motion to approve was made by: William VanFrank.

Second was made by: Jeff King.

Ayes: 5

Nays: 2

Dated: May 11, 2004

Wesley J. Weesies
Wesley J. Weesies

AFFIDAVIT OF PUBLICATION

State of Michigan

In the Matter of Notice of Adoption of the Third Amendment to the Montague Township Zoning Ordinance

COUNTY OF MUSKEGON _____ SS.

Montague Township
**NOTICE OF
ADOPTION**

of the Third (3rd) Amendment to the
Montague Township Zoning Ordinance

All persons please take notice that the Montague Township Board adopted the following Third (3rd) Amendment to the Montague Township Zoning Ordinance at a regular township board meeting held on May 11, 2004, by adding the following subsections to the zoning ordinance:

The foregoing subsection is added, as a conditional use in the residential ("R") zoning district, to Section 3.13 of the zoning ordinance:

3.13. The use of a lot with frontage on White Lake for "keyhole access" as set forth on Section 4.31 of this ordinance.

The foregoing section is added to Section 4.31 of the zoning ordinance:

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

Gregory N. Means

being first duly sworn, says that he is the editor of The White Lake Beacon, a newspaper published in the English language for the dissemination of local or transmitted news and intelligence of a general character and legal news, which is a duly qualified newspaper, and that annexed hereto is a copy of a certain order taken from said newspaper, in which the order was published on the following dates:

May 16, 2004, 20_____, 20_____
_____, 20_____, 20_____
_____, 20_____, 20_____

Gregory N. Means

Subscribed and sworn to before me this twenty-fourth day of August, 2004

Karen L. Henderson Karen L. Henderson
Notary Public, Muskegon County, Michigan

My commission expires February 17, 2006

Amendment to the Montague Township Zoning Ordinance at a regular township board meeting held on May 11, 2004, by adding the following subsections to the zoning ordinance:

The foregoing subsection is added, as a conditional use in the residential ("R") zoning district, to Section 3.13 of the zoning ordinance:

3.13. The use of a lot with frontage on White Lake for "keyhole access" as set forth on Section 4.31 of this ordinance.

The foregoing section is added to Section 4.31 of the zoning ordinance:

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.

**This amended provision of the Montague Township
Ordinance shall take effect seven (7) days after
publication of Notice of Adoption of this provision.**

Wesley J. Weesies, Township Clerk

Publish: May 16, 2004

May 16, 2004

_____, 20____, _____, 20_____

_____, 20____, _____, 20_____

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Subscribed and sworn to before me this twenty-fourth
day of August, 20 04

Karen L Henderson Karen L Henderson

Notary Public, Muskegon County, Michigan

My commission expires February 17, 2006

MONTAGUE TOWNSHIP
Fourth (4th) AMENDMENT TO THE
MONTAGUE TOWNSHIP ZONING ORDINANCE

The Montague Township Board hereby adopts the following Fourth (4th) Amendment to the Montague Township Zoning Ordinance adopted August 10, 2004:

Section 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 6a.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.

This amended provision of the Montague Township zoning ordinance shall take effect 7-days after publication of Notice of Adoption of this provision.

Dated: AUG. 18, 2004

Wesley J. Weesies
Wesley J. Weesies, Township Clerk

AFFIDAVIT OF PUBLICATION

State of Michigan

In the Matter of Wind Turbine Generators

COUNTY OF MUSKEGON _____ SS.

NOTICE

**Montague Township Board
Public Hearing**

Re: Proposed Amendment to the Zoning Ordinance
Re: Wind Turbine Generators

ALL INTERESTED PERSONS, please take notice that the Montague Township Board shall conduct a public hearing upon a proposed amendment to the Montague Township Zoning Ordinance. Such meeting shall be conducted at the Montague Township Hall at 8915 Whitbeck Road, Montague, commencing at 7:30 p.m. on Tuesday, August 10, 2004. All interested persons may appear and submit written or oral comment regarding the proposed amendment. The proposed amendment would regulate and adopt standards for the operation of wind turbine generators. Copies of the proposed amendment may be inspected at the law offices of Rose & Eklund at 8787 Ferry Street, Montague, Monday through Friday from 9:00 a.m. until 5:00 p.m. or at the Montague Branch Muskegon County Library at 8778 Ferry Street, Montague during their regular business hours. Written comment may be made prior to the hearing by sending, faxing (893-0006), or personally delivering such comment to Rose & Eklund.

Montague Township Board
Wesley Weesies,
Township Clerk

Publish: August 1, 2004

Gregory N. Means

being first duly sworn, says that he is the editor of The White Lake Beacon, a newspaper published in the English language for the dissemination of local or transmitted news and intelligence of a general character and legal news, which is a duly qualified newspaper, and that annexed hereto is a copy of a certain order taken from said newspaper, in which the order was published on the following dates:

August 1, 2004, 20____
_____, 20____, 20____
_____, 20____, 20____

Gregory N. Means

Subscribed and sworn to before me this third day of August, 2004

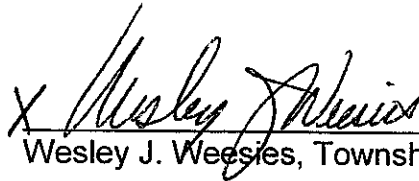
Karen L. Henderson Karen L. Henderson
Notary Public, Muskegon County, Michigan.

My commission expires February 17, 2001

MONTAGUE TOWNSHIP
FIFTH (5th) AMENDMENT TO THE
MONTAGUE TOWNSHIP ZONING ORDINANCE

The Montague Township Board hereby adopts the following Fifth (5th) Amendment (attached hereto) to the Montague Township Zoning Ordinance adopted December 12, 2006:

Dated: December 12, 2006

X 
Wesley J. Weesies, Township Clerk

CLERK'S CERTIFICATION

Wesley J. Weesies, Montague Township Clerk, hereby certifies that the foregoing Fifth Amendment to the Montague Township zoning ordinance was adopted by the Township Board at a regular meeting thereof, held at 7:00 pm p.m. on the following date: December 12, 2006, which meeting was held at the Montague Township Hall at 8915 Whitbeck Road, Montague, MI, 49437.

The motion to adopt the amendment was made by: Tracy Korthase.

A second to the motion was made by: Wes Weesies.

The following members of the Township Board voted in favor of the ordinance amendment: Tracy Korthase, Wes Weesies, Jeff King, Jay Goodrich

The following members of the Township Board voted against the ordinance amendment: Pete Stahl

Dated: December 12, 2006

X Wesley J. Weesies
Wesley J. Weesies, Township Clerk

**FIFTH (5th) AMENDMENT TO THE
MONTAGUE TOWNSHIP ZONING ORDINANCE**

Amendments Pursuant to the Michigan Zoning Enabling Act.

Article 4 Conditional Uses

Section 4.03(1). Change to reflect notice requirements as set forth in the Michigan Zoning Enabling Act.

Article 14 Zoning Board of Appeals

Section 14.04. Change to set forth the duties of the alternate members.

Article 18 Zoning Ordinance Amendments

Section 18.01(3). Addition to include a yearly review of the zoning ordinance by the Planning Commission.

Section 18.02. Change to reflect notice requirements as set forth in the Michigan Zoning Enabling Act. Also change reflecting Township Board's discretion to send a matter back to the Planning Commission.

Article 19 Variances

Section 19.01. Addition of term "nonuse" before the word "variance." Delete reference to "unnecessary hardship."

Section 19.02 and Section 19.03. Changes to include only the granting of nonuse variances. Also changes to reflect the standards of granting a nonuse variance pursuant to the Michigan Zoning Enabling Act.

Section 19.05. Change to reflect notice requirements as set forth in the Michigan Zoning Enabling Act.

Section 19.06(3). This provision shall be deleted in its entirety.

Section 21.05(5). Change to reflect 30 day appeal. Also, reference change to MCL 125.3702 et. seq.

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. ~~The Planning Commission shall cause to be published one (1) notice of public hearing, not less than five (5) or more than fifteen (15) days in advance of such hearing, and shall notify by regular mail or personal delivery the applicant(s) and all property owners within three hundred (300) feet of the subject property. Such notice shall describe the nature of the request; indicate the property involved, state the time and place of the hearing, and indicate~~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.

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

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 shall not more than two (2) alternate members of for the Zoning Board of Appeals, who shall fill in when same term as regular Zoning Board of Appeals members are absent or must disqualify himself or herself or is otherwise unavailable to participate in a determination 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.

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 18

ZONING ORDINANCE AMENDMENTS

This Zoning Ordinance may be amended at any time pursuant to the procedures of the Township Rural Zoning Act (Public Act 184 of 1943) 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.

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, ~~notice to be~~

given in accordance with the requirements and publish and provide required notices of the Zoning Act.

~~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 and to the Muskegon County Planning Commission. The Township Board may hold additional hearings if it considers it necessary. The notice for such hearing to be the same as required by the Planning Commission public hearing for the same matter 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.

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.

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 ~~unnecessary hardship or practical difficulty~~.

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 ~~special~~ conditions and circumstances exist which are peculiar to the land (including but not limited to location, width, depth, shape or topography, ~~or structure or building~~ involved and which are not applicable to all other lands, or structures or buildings 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.

2. 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.

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

4. 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.

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 ~~and/or the intended use of said property for which the variance is sought,~~ 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.

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 is provided in the case of conditional uses 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.

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.

~~3. The variance use of a building or property, which has been destroyed by fire or otherwise in excess of fifty percent (50%) of value shall be deemed terminated, and no repairs or re-use of same is allowed without re-applying for a variance pursuant to this Article.~~

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.

- 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 125.2903702 et. seq., 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 ~~twenty-onethirty~~ (2430) 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; ~~MSA 5.2963(23a), MCL 125.293a3702 et. seq.~~ within ~~twenty-onethirty~~ (2430) days after the decision by the Zoning Board of Appeals.

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:

MONTAGUE TOWNSHIP

NOTICE OF PUBLIC HEARING

RE: PROPOSED SIXTH (6th) AMENDMENT TO THE MONTAGUE TOWNSHIP ZONING ORDINANCE

ALL INTERESTED PERSONS, please take notice that the Montague Township Planning Commission shall conduct a public hearing and receive comment upon a proposed amendment to the Montague Township Zoning Ordinance. Such meeting shall be conducted at the **Montague Township Hall at 8915 Whitbeck Road, Montague, commencing at 6:00 p.m. on Wednesday, April 29, 2015**, regarding changes to Sections 3.32, 3.33, 3.42, 3.43 and 3.44 of the Zoning Ordinance. A summary of the changes is set forth below.

Article 3 Zoning Districts

"C" Commercial District Permitted Uses

Section 3.32(1). Changed to limit the permitted use to a floor area of 10,000 square feet or less.

Section 3.32(18). An added provision addresses floor area limits in retail stores as a permitted use, which limit shall be a floor area of 10,000 square feet or less.

Conditional Uses

Section 3.33(34). This added provision sets forth as a conditional use retail sales business exceeding a floor area of 10,000 square feet.

Section 3.33(35). This added provision sets forth as a conditional use retail stores exceeding a floor area of 10,000 square feet.

"I" Industrial District Permitted Uses

Section 3.42(1). Changed to limit the permitted use to a floor area of 10,000 square feet or less.

Section 3.42(2). Changed to limit the permitted use to a floor area of 10,000 square feet or less.

Section 3.42(12). An added provision addresses floor area limits in retail stores as a permitted use, which limit shall be a floor area of 10,000 square feet or less.

Conditional Uses

Section 3.43(28). This added provision sets forth as a conditional use lumber yards, sawmills and lumber mills exceeding a floor area of 10,000 square feet.

Section 3.43(29). This added provision sets forth as a conditional use warehousing and wholesale businesses exceeding a floor area of 10,000 square feet.

Section 3.43(30). This added provision sets forth as a conditional use retail stores exceeding a floor area of 10,000 square feet.

Section 3.44 Lot Size Requirements; Setbacks; Building Heights. The word "increased" shall be changed to "altered".

All interested persons may appear and submit written or oral comment regarding the proposed amendment. Copies of the proposed amendment may be inspected at the law offices of Rose & Rose Attorneys at 8787 Ferry Street, Montague, Monday through Friday from 9:00 a.m. until 5:00 p.m., or at the Montague Branch Muskegon County Library at 8778 Ferry Street, Montague, during their regular business hours. Written comment may be made prior to the hearing by sending, faxing (893-0006), or personally delivering such comment to Rose & Rose Attorneys.

Montague Township Planning Commission

Jeff King, Township Supervisor

Publish: April 12, 2015

**MONTAGUE TOWNSHIP
APPLICATION FOR ZONING ORDINANCE AMENDMENT**

Note: This application form is intended for use for all requests for amendments to the Montague Township Zoning Ordinance. A copy of Article 18 is attached to this application form.

1. Name and Address of Applicant(s): Planning Commission Request

2. Applicant's telephone No.: _____

3. Action requested: State in detail what the applicant wants (attach a separate sheet if necessary): 6th Amendment to Zoning Ordinance

4. List any facts in support of the action requested (attach a separate sheet if necessary): _____

5. This application seeks (check one):

☒ An amendment to the text of the zoning ordinance;

☐ An amendment to the zoning map;

☐ An amendment to both the text of the zoning ordinance and the zoning map.

6. Other information required; submit on a separate sheet: If the Applicant wants a specific area or lot within the Township to be changed to a different zoning classification, identify the area or lot, the existing zoning classification and the proposed new zoning classification. If the Applicant wants a change to the text of the Zoning Ordinance, identify the ordinance section(s) to be changed, and state the proposed new language. Also submit all information required by Zoning Ordinance Section 4.03, to the extent not disclosed elsewhere on this application.

7. Checklist: Has the Applicant submitted with this application the following:

a. Payment of the \$325 fee for zoning amendment request? ☐ Yes ☐ No

N/A

b. Has Applicant attached 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 sections and language pursuant to Section 18.02(A)? ☐ Yes ☐ No N/A

c. Has Applicant attached 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 300 feet of the property affected by such amendment pursuant Section 18.02(B)? ☐ Yes ☐ No N/A

Date: _____

Planning Commission
Applicant*

*State your capacity if representing a company

PLANNING COMMISSION DECISION

The recommendation of the Planning Commission regarding the proposed amendment:
The proposed amendment is:

☒ Approved ☐ Denied *Motion Tracy
2nd Stu*

Roll Call Vote: Francis yes Korthase yes Goodrich yes Hoglund yes Scholl yes

The decision is based upon the following reasons (attach additional sheets as necessary): _____

Dated: 4/29/2015

David Francis
Planning Commission Chairperson

TOWNSHIP BOARD DECISION

The proposed amendment is:

☒ Approved ☐ Denied

Roll Call Vote: King yes Korthase yes ^{2nd} Seaver yes ^{Mot} Staal yes ^{Weesies} ~~Seaver~~ yes

The decision is based upon the following reasons (attach additional sheets as necessary): Feel beneficial to the community + adheres to
practical stand standards.

Dated: 06/09/2015

Melissa J. Weesies
Township Clerk

MONTAGUE TOWNSHIP
NOTICE
OF PUBLIC HEARING
RE: PROPOSED SIXTH (6th) AMENDMENT
TO THE
MONTAGUE TOWNSHIP ZONING ORDINANCE

ALL INTERESTED PERSONS, please take notice that the Montague Township Planning Commission shall conduct a public hearing and receive comment upon a proposed amendment to the Montague Township Zoning Ordinance. Such meeting shall be conducted at the **Montague Township Hall at 8915 Whitbeck Road, Montague, commencing at 6:00 p.m. on Wednesday, April 29, 2015**, regarding changes to Sections 3.32, 3.33, 3.42, 3.43 and 3.44 of the Zoning Ordinance. A summary of the changes is set forth below.

ARTICLE 3 ZONING DISTRICTS

"C" COMMERCIAL DISTRICT

Permitted Uses

Section 3.32(1). Changed to limit the permitted use to a floor area of 10,000 square feet or less.

Section 3.32(18). An added provision addresses floor area limits in retail stores as a permitted use, which limit shall be a floor area of 10,000 square feet or less.

CONDITIONAL USES

Section 3.33(34). This added provision sets forth as a conditional use retail sales business exceeding a floor area of 10,000 square feet.

Section 3.33(35). This added provision sets forth as a conditional use retail stores exceeding a floor area of 10,000 square feet.

"I" INDUSTRIAL DISTRICT

Permitted Uses

Section 3.42(1). Changed to limit the permitted use to a floor area of 10,000 square feet or less.

Section 3.42(2). Changed to limit the permitted use to a floor area of 10,000 square feet or less.

Section 3.42(12). An added provision addresses floor area limits in retail stores as a permitted use, which limit shall be a floor area of 10,000 square feet or less.

CONDITIONAL USES

Section 3.43(28). This added provision sets forth as a conditional use lumber yards, sawmills and lumber mills exceeding a floor area of 10,000 square feet.

Section 3.43(29). This added provision sets forth as a conditional use warehousing and wholesale businesses exceeding a floor area of 10,000 square feet.

Section 3.43(30). This added provision sets forth as a conditional use retail stores exceeding a floor area of 10,000 square feet.

Section 3.44. Lot Size Requirements; Setbacks; Building Heights. The word "increased" shall be changed to "altered".

All interested persons may appear and submit written or oral comment regarding the proposed amendment. Copies of the proposed amendment may be inspected at the law offices of Rose & Rose Attorneys at 8787 Ferry Street, Montague, Monday through Friday from 9:00 a.m. until 5:00 p.m., or at the Montague Branch Muskegon County Library at 8778 Ferry Street, Montague, during their regular business hours. Written comment may be made prior to the hearing by sending, faxing (893-0006), or personally delivering such comment to Rose & Rose Attorneys.

Montague Township Planning Commission

Jeff King, Township Supervisor

Publish: April 12, 2015

Special Meeting Notice
Montague Township Planning Commission
8915 Whitbeck Road
Montague, MI 49437
Rachael Novak: 231-894-9088 ext. 33

Date of Meeting: 04/29/2015
Time of Meeting: 6:00 p.m.
Location of Meeting: Montague Township Hall

Purposes of Meeting: The purpose of the meeting is for the following reasons: (1) To consider the application of Joel McCormick for a request for a conditional use regarding a gasoline service station; and (2) to consider the proposed sixth amendment to the Montague Township Zoning Ordinance. (NOTE: The more detailed notices of the meeting are also posted along with this notice.)

This notice is posted in compliance with the Open Meetings Act, Public Act 267 of 1976, as amended, (MCL 41.72a(2)(3)).

Posted on: April 26, 2015

151

Signature of Township Representative

A copy of this notice is on file in the Clerk's Office.

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 ~~increased~~ altered as a conditional use.

"C" COMMERCIAL DISTRICT

...

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.

...

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.

3.33 CONDITIONAL USES

.....

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

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.

"I" INDUSTRIAL DISTRICT

...

3.42 PERMITTED USES

1. Lumber yards, sawmills, and lumber mills, if the floor area is 10,000 square feet or less.

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.

...

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.

...

3.43 CONDITIONAL USES

...

28. Lumber yards, sawmills, and lumber mills, if the floor area exceeds 10,000 square feet.

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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.

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.

es M. Rose
Rachael M. Novak

Rose & Rose
ATTORNEYS AT LAW
8787 FERRY ST.
MONTAGUE, MI 49437-0235

Phone: (231)894-9088
Fax: (231)893-0006

Ralph Rose, Jr.
Of Counsel

MAILING ADDRESS
P.O. BOX 235
MONTAGUE, MI 49437-0235

jmrose@roseattorney.com
rmnovak@roseattorney.com

April 30, 2015

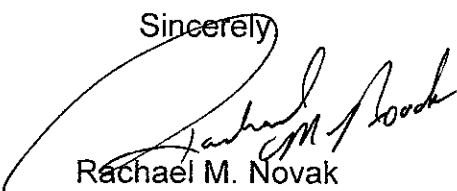
Michael E. Kobza Hall of Justice
Administration 4th Floor
County Administrator
990 Terrace
Muskegon, MI 49442

Re: Proposed Amendments to the Montague Township Zoning Ordinance

Dear County Administrator:

Enclosed is a copy of the proposed 6th amendment to the Montague Township Zoning Ordinance for review by the Muskegon County Planning Commission, pursuant to Michigan Law. Pursuant to township ordinance adoption procedures, I have enclosed a copy of the proposed amendment to the Montague Township Zoning Ordinance and a summary as set forth in the Notice of Hearing regarding same, which is also enclosed for your quick reference. The Montague Township Planning Commission has voted to recommend this amendment. If you have any questions, please feel free to contact me.

Sincerely



Rachael M. Novak

Enclosure

cc: Jeff King, Montague Township Supervisor

PROOF OF SERVICE

RACHAEL M. NOVAK, being duly sworn, deposes and says that on the 30th day of April, 2015, she placed in the United States mail, first class postage prepaid, a copy of a Notice of Publication of Hearing for a proposed conditional use permit request from McCormick upon:

Michael E. Kobza Hall of Justice
Administration 4th Floor
County Administrator
990 Terrace
Muskegon, MI 49442

Dated: April 30, 2015


Rachael M. Novak

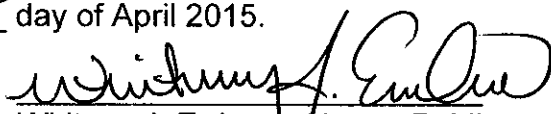
STATE OF MICHIGAN

)
)ss

COUNTY OF MUSKEGON

)

Subscribed and sworn to before me this 30th day of April 2015.


Whitney J. Erdman, Notary Public
Muskegon County, Michigan
Acting in Muskegon County Michigan
My Commission Expires: 5/4/20

amendment, including specific references to the portions of the existing Ordinance sections and language pursuant to Section 18.02(A)? ☐ Yes ☐ No N/A

c. Has Applicant attached 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 300 feet of the property affected by such amendment pursuant Section 18.02(B)? ☐ Yes ☐ No N/A

Date: _____

Planning Commission
Applicant*

*State your capacity if representing a company
.....

PLANNING COMMISSION DECISION

The recommendation of the Planning Commission regarding the proposed amendment:
The proposed amendment is:

☒ Approved ☐ Denied *Motion Tracy
2nd Stu*

Roll Call Vote: Francis yes Korthase yes Goodrich yes Hoglund yes Scholl yes

The decision is based upon the following reasons (attach additional sheets as necessary):

Dated: 4/29/2015

David Francis
Planning Commission Chairperson

TOWNSHIP BOARD DECISION

The proposed amendment is:

☐ Approved ☐ Denied

Roll Call Vote: King ☐ Korthase ☐ Seaver ☐ Staal ☐ Seaver ☐

The decision is based upon the following reasons (attach additional sheets as necessary):

Dated: _____

Township Clerk

MONTAGUE TOWNSHIP

NOTICE OF ADOPTION

OF THE SIXTH (6TH) AMENDMENT TO THE MONTAGUE TOWNSHIP ZONING ORDINANCE

All persons please take notice that at a regular meeting of the Montague Township Board, held on the 9th day of June, 2015, at the Montague Township Hall at 8915 Whitbeck Road, Montague, the Township Board adopted the Sixth (6th) Amendment to the Montague Township Zoning Ordinance of April 9, 2002. A summary of the amendment is set forth below.

Article 3 Zoning Districts

"C" Commercial District

Permitted Uses

Section 3.32(1). Changed to limit the permitted use to a floor area of 10,000 square feet or less.

Section 3.32(18). An added provision addresses floor area limits in retail stores as a permitted use, which limit shall be a floor area of 10,000 square feet or less.

Conditional Uses

Section 3.33(34). This added provision sets forth as a conditional use retail sales business exceeding a floor area of 10,000 square feet.

Section 3.33(35). This added provision sets forth as a conditional use retail stores exceeding a floor area of 10,000 square feet.

"I" Industrial District

Permitted Uses

Section 3.42(1). Changed to limit the permitted use to a floor area of 10,000 square feet or less.

Section 3.42(2). Changed to limit the permitted use to a floor area of 10,000 square feet or less.

Section 3.42(12). An added provision addresses floor area limits in retail stores as a permitted use, which limit shall be a floor area of 10,000 square feet or less.

Conditional Uses

Section 3.43(28). This added provision sets forth as a conditional use lumber yards, sawmills and lumber mills business exceeding a floor area of 10,000 square feet.

Section 3.43(29). This added provision sets forth as a conditional use warehousing and wholesale exceeding a floor area of 10,000 square feet.

Section 3.43(30). This added provision sets forth as a conditional use retail stores exceeding a floor area of 10,000 square feet.

Section 3.44 Lot Size Requirements; Setbacks; Building Heights. The word "increased" shall be changed to "altered".

Copies of the amendment may be inspected at Rose and Rose Attorneys at 8787 Ferry Street, Montague, Monday through Friday from 9:00 a.m. until 5:00 p.m.

This amended provision of the Montague Township Zoning Ordinance shall take effect seven (7) days after publication of Notice of Adoption of this provision.

Wes Weesies, Township Clerk

Publish: June 14, 2015

MONTAGUE TOWNSHIP
NOTICE OF ADOPTION
OF THE SEVENTH (7TH) AMENDMENT
TO THE MONTAGUE TOWNSHIP
ZONING ORDINANCE

All persons please take notice that at a regular meeting of the Montague Township Board, held on the 12th day of May, 2020, at the Montague Township Hall at 8915 Whitbeck Road, Montague, the Township Board adopted the Seventh (7th) Amendment to the Montague Township Zoning Ordinance of April 9, 2002. A summary of the amendment is set forth below.

Article 3 Zoning Districts

"G" Agricultural District

Section 3.06 shall be amended to allow accessory buildings (i.e., not as to dwellings), a reduction of the setbacks for side lot lines to a lesser distance as a conditional use as to legal nonconforming parcels, which are less than 20 acres. However, in the case of farm accessory buildings containing animals, Section 3.05 shall apply.

Copies of the amendment may be inspected at Rose & Novak Attorneys at 8787 Ferry Street, Montague, Monday through Friday from 9:00 a.m. until 5:00 p.m. This amended provision of the Montague Township Zoning Ordinance shall take effect seven (7) days after publication of Notice of Adoption of this provision.

Wes Weesies
Township Clerk

Publish: May ²⁴ 17, 2020

MONTAGUE TOWNSHIP

NOTICE OF PUBLIC HEARING

**RE: PROPOSED SEVENTH (7th) AMENDMENT TO THE
MONTAGUE TOWNSHIP ZONING ORDINANCE**

ALL INTERESTED PERSONS, please take notice that the Montague Township Planning Commission shall conduct a public hearing and receive comment upon a proposed amendment to the Montague Township Zoning Ordinance. Such meeting shall be conducted at the **Montague Township Hall at 8915 Whitbeck Road, Montague, commencing at 3:30 p.m. on Tuesday, February 18, 2020**, regarding changes to Section 3.06. A summary of the change is set forth below.

Article 3 Zoning Districts

"Ag" Agricultural District

Section 3.06 shall be amended to allow accessory buildings (i.e., not as to dwellings), a reduction of the setbacks for side lot lines to a lesser distance as a conditional use as to legal nonconforming parcels, which are less than 20 acres. However, in the case of farm accessory buildings containing animals, Section 3.05 shall apply.

All interested persons may appear and submit written or oral comment regarding the proposed amendment. Copies of the proposed amendment may be inspected at the law offices of Rose & Novak Attorneys at 8787 Ferry Street, Montague, Monday through Friday from 9:00 a.m. until 5:00 p.m., or at the Montague Branch Muskegon County Library at 8778 Ferry Street, Montague, during their regular business hours. Written comment may be made prior to the hearing by sending, faxing (893-0006), or personally delivering such comment to Rose & Novak Attorneys.

Montague Township Planning Commission

Jeff King, Township Supervisor

Publish: February 2, 2020

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. Provided further, as to accessory buildings (i.e., not as to dwellings), the aforementioned setbacks for side lot lines may be reduced to a lesser distance as a conditional use as to legal nonconforming parcels, which are less than 20 acres. However, in the case of farm accessory buildings containing animals, Section 3.05 shall apply. 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. (Amended X/X/2020)

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. Provided further, as to accessory buildings (i.e., not as to dwellings), the aforementioned setbacks for side lot lines may be reduced to a lesser distance as a conditional use as to legal nonconforming parcels, which are less than 20 acres. However, in the case of farm accessory buildings containing animals, Section 3.05 shall apply. 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. (Amended X/X/2020)

**MONTAGUE TOWNSHIP
NOTICE OF ADOPTION OF THE EIGHTH (8TH) AMENDMENT TO THE
MONTAGUE TOWNSHIP ZONING ORDINANCE**

All persons please take notice that at a regular meeting of the Montague Township Board, held on the 10th day of October, 2023, at the Montague Township Hall at 8915 Whitbeck Road, Montague, the Township Board adopted the Eighth (8th) Amendment to the Montague Township Zoning Ordinance of April 9, 2002. A summary of the amendment is set forth below.

**ARTICLE 22
SOLAR ENERGY SYSTEMS**

Section 22.01 PURPOSE. This section sets forth the purpose of the Article.

Section 22.02 DEFINITIONS. This section sets forth the definitions as used in this Article.

Section 22.03 SES AND SES COMPONENT REQUIREMENTS. This section sets forth the requirements for all solar energy systems ("SES") and SES components, except where stricter requirements in the Ordinance require. Such requirements address roof mounted SES for personal use, ground mounted SES for personal use, site plan, total lot coverage by an SES, setback, height, front yard placement restriction, security for components, decommissioning and removal of SES and SES components, glare, noise and responsibilities of owner(s) of the parcel.

Section 22.04 GROUND MOUNTED SES IN EXCESS OF 2,000 SQUARE FEET. This section sets forth requirements for SESs that are in excess of 2,000 square feet in area. Said requirements include, but are not limited to, the requirement of a conditional use permit, state building code and national fire code compliance, approval of SES components, setbacks, height, screening, security, distributions, transmission, and interconnection, glare, noise, lighting, advertising, roads/access driveways, pollinator habitat plan, landscaping plan, environmental studies, site plan, topographic depiction of neighboring parcels, construction waste management plan, maintenance plan, decommissioning plan, emergency personnel, fees, inspection, escrows and security bond, monetary guaranty, length of monetary guaranty/Township as beneficiary, reassessment of monetary guaranty, failure to maintain monetary guaranty, release of monetary guaranty, maintenance and repair, industry standards, cost to repair/maintain, broken SES components, abandonment and/or decommissioning, updated decommissioning plan, one year decommissioning time period, failure of complete removal and reclamation and abandonment.

Drew Roesler, Township Clerk

Publish: 10/29/23

ARTICLE 22

SOLAR ENERGY SYSTEMS

22.01 PURPOSE

The purpose of this Article is to establish standards and procedures by which the installment and operation of Solar Energy Systems and their components shall be governed. The goals of this Article are:

1. To promote safe, effective, and efficient use of Solar Energy Systems and their components.
2. To lessen potential adverse impacts which Solar Energy Systems and their components may have on areas within the Township and land uses, through careful design, siting, noise and environmental impact awareness.
3. To avoid potential injury and/or nuisance to the public and to adjacent properties.

22.02 DEFINITIONS

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

1. "Solar Energy System" ("SES"): Solar collectors, panels, controls, energy storage devices, heat pumps, heat exchangers, and/or other materials, hardware or equipment necessary or desirable to the process by which solar radiation/energy is collected, converted into another form of energy, stored, protected from unnecessary dissipation, and distributed. SESs include solar thermal, photovoltaic, and concentrated solar. This definition does not include small devices or equipment such as solar powered lawn or building lights which house both the solar energy generation system and the system which uses that energy to operate.
2. "Owner": This term shall apply to the following: The owner of the land upon which the SES is situated, the lessee of the land and the operator of the SES.

22.03 SES AND SES COMPONENT REQUIREMENTS

The requirements for all SESs and SES components (except where a stricter requirement is specified by this Ordinance) are as follows:

1. Roof mounted SES for personal use. Roof mounted SESs are allowed on buildings in any zoning district, as a permitted use. The total area of any such SES shall not exceed the area of the roof. SESs comprising a larger area on any building shall require site plan review by the Planning Commission, for approval. Roof mounted SESs shall not project past the peak of the roof and shall not exceed the maximum building height limitation. SES components shall not project beyond the eaves of the roof. Wall mounted SESs are prohibited.

2. Ground Mounted SES for personal use. Ground mounted SESs and SES components less than 1,000 square feet in total area per lot or parcel are allowed as a permitted use in any zoning district. Ground mounted SESs and SES components between 1,000 square feet in total area per lot or parcel and 2,000 square feet in total area per parcel or lot are allowed in any zoning district as a Conditional Use. Ground mounted SESs and SES components that exceed 2,000 square feet in total area on a lot or parcel are only allowed as a Conditional Use within the Commercial District, Industrial District, and Agricultural District if such agriculturally zoned parcel is adjacent/contiguous to Commercial and/or Industrial districts. Parcels shall not be considered adjacent/contiguous if the parcels are separated by a public or private road right of way or easement.

3. Site Plan. An SES site plan application shall include a sketch drawing depicting all lot line setbacks and the location of components in addition to any other documents required by the Township, and also in accordance with any additional site plan instructions.

4. Total Lot Coverage. The total amount of coverage of SESs and SES components is limited to 20% of the total square footage of the parcel involved when the parcel is located in the following zoned districts: Residential, Mobile Home, or Forestry Recreational.

5. Setback. Any SES or SES component shall be set back a minimum of 50 feet from the front property line, 15 feet from the side lot lines and 25 feet from the rear lot line.

6. Height. The maximum height of a ground mounted SES device shall not exceed fourteen (14) feet above natural grade.

7. Front Yard Placement Restriction. No SES or SES component shall be located in the front yard of any zoning district, unless approved by the Planning Commission upon site plan review. In addition, no SES or SES component shall be located on the waterfront side of the property, unless approved by the Planning Commission upon site plan review.

8. Security for components. Security for SES components is the responsibility of the owner.

9. Decommissioning and Removal of SES and SES components. Following the operational life of the SES (i.e. when the SES is no longer functioning), the owner shall perform decommissioning and removal of the SES and SES components.

10. Glare. All SES and SES components shall be designed and operated to avoid glare and reflection of sunlight and other artificial lighting which may affect navigation by air, water, and roadway, or be a nuisance to neighboring properties. SES designs shall comply with Federal Aviation Administration siting requirements.

11. Noise. No SES component shall emit noise exceeding forty five (45) dBA, as measured at the parcel's property boundary and/or road right- of-way.

12. Responsibility of owner of parcel. Regardless of whether a particular provision of this Article refers to the applicant, the lessee and/or the owner of a lot or parcel, the owner of the lot or parcel shall be ultimately responsible for compliance with this Ordinance.

22.04 GROUND MOUNTED SES IN EXCESS OF 2,000 SQUARE FEET

This Section applies to SESs in excess of 2,000 square feet.

1. Conditional Use Permit required. A Conditional Use Permit is required for an SES in excess of 2,000 square feet, and is allowed in the Commercial District, Industrial District, and Agricultural District if such agriculturally zoned parcel is adjacent/contiguous to Commercial and/or Industrial districts. Parcels shall not be considered adjacent/contiguous if the parcels are separated by a public or private road right of way or easement. The applicant shall also comply with all applicable federal, State of Michigan, local and county requirements, in addition to other applicable Township ordinances and codes. All plans, drawings or other material submitted for an SES conditional use shall be produced by licensed professionals certified and/or licensed to produce such materials.

2. State Building Code and National Electric Code. The applicant shall comply with State of Michigan Building Code (as adopted by the Township) and the National Electric Code ("NEC"). In the event of a conflict between the State Building Code and NEC, the NEC shall prevail.

3. Approval of SES components. All SES components shall be approved by the Institute of Electrical and Electronics Engineers ("IEEE"), Solar Rating and Certification Corporation ("SRCC"), Electronic Testing Laboratories ("ETL"), or a similar certification organization.

4. Setbacks. Except for roof mounted SES, any SES component shall not be located within six hundred (600) feet of the boundary of a property where a residential use is not participating in an SES of the same or similar scale of energy production. In addition, if there is a residential use on the parcel where an SES is established, any SES and/or SES component shall not be located within 150 feet of the residence of that parcel. For all other parcels, SES and SES components shall be set back one hundred (100) feet from any property line, except that a setback from a public road right of way shall be one hundred and fifty (150) feet.

5. Height. The maximum height of a free-standing SES and/or SES components shall not exceed fourteen (14) feet above natural grade. Other SES components and buildings such as any substation and related electrical transmission equipment shall not exceed the maximum allowed height of thirty five (35) feet as measured from the natural grade at the base of the SES and/or SES component to the

tip when extended at maximum tilt. Provided further, during the construction of the SES and SES components, no grading of the property shall be allowed. In the event the inability to grade the property shall cause the SES and/or SES components to exceed fourteen (14) feet above natural grade, the Planning Commission may waive such fourteen (14) foot height restriction and allow for a greater height.

6. Screening. Where an SES is across a public or private street from, or abuts a residential use and such residential use is not screened by natural vegetation, the perimeter within 150 feet from the residence or property boundary upon the parcel housing the SES shall be screened and buffered by evergreen or native vegetative plantings, which shall be maintained throughout the life of the SES.

7. Security. Security for an SES under this Section requires a completely enclosed perimeter security fence to restrict unauthorized access. Fencing shall not exceed eight (8) feet in height, unless approved by the Planning Commission. Electric fencing or barbed-wire fencing is not permitted. Fencing in excess of eight (8) feet in height may be required to be setback further from the road right-of-way. Any substation or support structures and related electrical transmission equipment buildings shall be further secured with additional fencing and security measures, locks, and restricted access. Any public roadways or access points to the parcel shall have additional fencing and/or restricted access measures.

8. Distribution, transmission, and interconnection. All collection lines and interconnections within the SES shall be located and maintained underground, unless above ground installation is approved by the Planning Commission. This requirement excludes transmission lines and equipment meant to connect the project inverter(s) to the project substation and public utility substation off site from the SES on the property, all of which may be above ground. There shall be no battery storage utilized to store solar energy located upon the property.

9. Glare. All SES tilt components shall be designed and operated to avoid glare and reflection of sunlight and other artificial lighting which may affect navigation by air, water, and roadway, or be a nuisance to neighboring properties. SES designs shall comply with Federal Aviation Administration siting requirements.

10. Noise. No SES component shall emit noise exceeding forty five (45) dBA, as measured at the exterior parcel boundary or existing road right-of-way line.

11. Lighting. Exterior lighting for parking lots, driveways, external illumination of buildings, or the illumination of signs shall be directed away from and be shielded from adjacent properties, focused in a downward fashion, and shall be so arranged as to not adversely affect driver visibility on adjacent public roads.

12. Advertising. No advertising or non-project graphics shall be permitted on any part of the SES or SES components. This exclusion does not apply to entrance gate signage or notifications containing SES contacts, or any and all other information that may be required by authorities having jurisdiction for electrical operations. This provision shall not limit the use of signage as otherwise permitted in this Ordinance, except that

billboards advertising products or services off-premises shall not be permitted.

13. Roads/access driveways. Access driveways from public roads shall be subject to the Muskegon County Road Commission review and approval. Any material damages to a public road located within the Township resulting from the construction, maintenance, and/or operation of an SES shall be repaired at the owner's expense. In addition, the applicant shall submit to the appropriate county agency a description of the routes to be used by construction and delivery vehicles; and any road improvement that will be necessary to accommodate construction vehicles, equipment or other deliveries. The applicant shall abide by all County requirements regarding the use and/or repair of County roads. The Township may require that the applicant and/or owner post a surety bond with the Township to cover estimated costs related to anticipated road damage or repairs, as recommended by the Muskegon County Road Commission.

14. Additional requirements. In addition to the general requirements of a Conditional Use application, an SES conditional use application shall include the following:

A. Pollinator habitat plan. A pollinator plan shall include but not be limited to:

i. Native plants shall be established and maintained for the life of the SES to support native and managed bees, butterflies, birds and/or other wildlife. Deviation from establishing native plants in these areas shall require approval of the Township Board. The areas to be established with native plants shall be:

(1) Under and between rows of solar panels shall be low growing grasses, clovers or other appropriate vegetation;

(2) Vacant area within the perimeter fence;

(3) Leased vacant area outside the perimeter fence.

ii. The Township shall appoint a specialist in pollinator habitat creation in Michigan to consult the owner with their plan for native plant establishment and maintenance, the cost for which the owner shall reimburse the Township. The plan shall follow current Best Maintenance Practices of Pollinator Habitat Installation and Maintenance for SES installations as found through Michigan State University Extension and Michigan State University Pollinator Initiative Program. The plan will meet or exceed a score of 85 using the Michigan Solar Site Pollinator Habitat Planning Form established by the Michigan State University Extension. A Pollinator Habitat plan and schedule shall be submitted for approval to the Township Board. The plan shall include pollinator habitat establishment milestones. Future deviation from the plan shall require Township Board approval. The SES installation site shall be monitored annually, at the expense of the owner, by a Township appointed consultant for pollinator habitat progress. A progress report shall then be submitted to the Township Board. Any deviation from the plan milestones shall be promptly addressed by the owner.

B. Landscaping plan. A landscaping plan, which shall be maintained for the life of the SES, shall include but not be limited to:

- i. Evergreen trees, a minimum of four (4) feet in height;
- ii. Deciduous trees, a minimum of 1 ¼ inch in diameter;
- iii. Shrubs, a minimum of two (2) feet in height;
- iv. The mix of trees and shrubs shall be site appropriate as determined by the Planning Commission and Township Board. The Planning Commission and/or Township Board, at the expense of the applicant and/or owner, shall have the right to consult a professional landscaper;
- v. In the event an SES abuts a public road and/or residence(s), the Planning Commission and Township Board shall determine the appropriate screening density;
- vi. No earthen berms shall be allowed as part of the visual screening requirement;
- vii. Climbing vines may be allowed as part of the landscaping plan;
- viii. Initial plantings and replacement plantings shall be installed between March and October.

C. Environmental Studies. At the Township's request, the applicant and/or owner 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/insect life/plant life) as required by the Township for review by the Township regarding the area or surrounding areas where the SES will be placed. Each such study or report shall be provided to the Township prior to the time when the Planning Commission makes its formal recommendation regarding the Conditional Use request to the Township Board. Failure to timely provide such studies may delay the Planning Commission's formal recommendation to the Township Board.

D. Site Plan. A detailed site plan shall be provided by the applicant and/or owner, which clearly and accurately depicts the property boundary surveys, setbacks, installation, and location of all devices and supporting building structures.

E. Topographic depiction of neighboring parcels. The owner shall provide a USGS based topographic depiction of all adjacent and neighboring property parcels showing the location and type of all buildings within 300 feet of the proposed SES. This depiction shall include the locations and elevations of all proposed SES/SES components.

F. Construction Waste Management Plan. The applicant and/or owner shall

submit a Construction Waste Management Plan describing the methods of waste disposal of the large quantities of cardboard, wood, scrap metal, and scrap wire. The Township may require an interim Waste Management bond or other security to insure that the site(s) are clean after initial construction.

G. Maintenance Plan. The applicant and/or owner shall provide a written description of the maintenance program to be used for and during the operation of the SES. The description shall include typical maintenance schedules, the types of maintenance to be performed, and the removal procedures and schedules should SES components become obsolete and/or abandoned. Also included in the maintenance plan shall be the written description of how any pollinators, landscaping and/or required vegetation will be maintained. Provided further, the Township shall require the applicant and/or owner to post with the Township a monetary guarantee in the form of a letter of credit, surety bond, or similar monetary guaranty for an amount necessary to accomplish landscaping maintenance, including the cost of replacement plantings, as agreed upon by the Township and the applicant and/or owner. The amount shall be reasonably sufficient to maintain the landscaping and cover the cost of replacement plantings. Said amount shall be reviewed annually, and reduced (i.e. refunded to the owner) as the plantings/landscaping matures and annual replacements become less likely.

H. Decommissioning Plan. The applicant and/or owner shall provide a Decommissioning Plan with the application which will describe the proposed process for decommissioning the site and restoring the property to its previous condition prior to the installation of the SESs and SES components. It shall state the estimated usable life of the SES and conditions for decommissioning; the estimated costs in current dollars; and, the process and timeframe to remove all components and structures from the site. The Decommissioning Plan, as approved by the Township, shall be recorded with the Muskegon County Register of Deeds on all properties developed for an SES as a conditional use.

I. Emergency personnel. The applicant shall provide informational materials up to and including training for responding local emergency and fire department services, and all fire departments that provide mutual aid, prior to the start of any commercial-scale SES operations. On-site emergency access and contacts and equipment protocols shall be provided to local emergency services and fire departments in the event of a fire or other emergency. Local emergency service and fire department training or materials will be held or provided thereafter at the expense of the owner, as requested by the emergency services and/or fire department(s) not more than once per calendar year or as reasonably necessary. If specific firefighting chemicals or materials are needed to extinguish commercial-scale SES equipment fires, local emergency services and the fire department shall be provided with the proper training to handle, contain, and clean-up the chemicals and/or materials by the applicant.

J. Fees. The application shall be accompanied with the applicable fees and escrow/bond as may be established by the Township Board, from time to time. Provided further, that the schedule of fees shall be deemed a minimum or base fee, and in addition the Township may charge the owner its actual costs and expenses incurred in the review of such applications, which costs may include but not be limited to: Publication fees,

professional engineering or site plan review fees by such professionals as the Township may deem necessary to engage, and actual attorney fees incurred by the Township in advising the Township and in reviewing and drafting documents necessary to the review or grant of any application submitted to the Township under this Ordinance. No permit, certificate, or conditional use approval 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 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. In the event any fees requested by the Township to be paid by the owner, are not paid to the Township by the owner, the Township may rescind the Conditional Use permit.

15. Inspection. The Township shall have the right, upon approving any SES conditional use, to inspect the premises on which the SES is located at all reasonable times, with prior 24-hour notice to owner. The Township may hire a consultant to assist with any inspections at the owner's expense.

16. Escrows and Security Bond. An escrow and/or security bond shall be required as follows:

A. Monetary guaranty. Prior to the start of construction or installation of an SES, the Township shall require the applicant and/or owner to post with the Township a Decommissioning Security in the form of a letter of credit, surety bond, or similar monetary guaranty for an amount necessary to accomplish the work specified in the Decommissioning Plan, as agreed upon by the Township and the applicant and/or owner. The amount shall be reasonably sufficient to restore the property to its previous condition prior to the initial construction and operation of the SES. The amount necessary to cover the cost of decommissioning and reclamation shall be presumed to be the greater of (i) the net salvage value calculated at 125% of the cost to decommission the project less the salvage value or (ii) an amount equal to \$20/kw AC at the time of construction; \$40/kw AC at the end of year ten; \$80/kw AC at the end of year 20. At the expense of the owner, the net salvage value calculation shall be performed by a third-party professional engineer every 5 years during operations and 12 months prior to the expiration of the project's power purchase agreements and/or lease with the owner. An escalation factor for inflation may be included for determining the amount of the estimated cost of decommissioning.

B. Length of monetary guaranty/Township as the beneficiary. Such financial security shall be kept in full force and effect during the entire time that the SES exists or is in place, and such financial security shall be irrevocable and non-cancelable by the owner. The Township shall be named as a beneficiary on such financial security documents. Where the applicant takes out the security, it may be assigned to the owner with notice to the Township.

C. Reassessment of monetary guaranty. On, or prior to, the end of a period of five (5) years of the operation of an SES, the estimated costs of decommissioning less the amounts reserved, if any, will be reassessed by the Township and an amount equal to the balance of such updated estimated cost of decommissioning, if any, will be reserved for

decommissioning and site restoration.

D. Failure to maintain monetary guaranty. Failure to maintain any required financial security in full force and effect at all times while the SES exists, or is in place, shall constitute a material and significant violation of the conditional use approval and this Ordinance, and subject the applicant and/or owner to all remedies available to the Township, including any enforcement action, civil action, request for injunctive relief, and/or revocation of the conditional use approval.

E. Release of monetary guaranty. The financial security will be released to the owner when the Township has determined that it is no longer required.

17. Maintenance and Repair. The following are requirements for maintenance and repair of SES and SES components, in addition to the requirements set forth in this Article:

A. Industry standards. The SES shall be maintained in good repair and condition, in accordance with industry standards, at all times. The owner has the responsibility to perform the maintenance and repairs in accordance with the Maintenance Plan and the prescribed schedules in a timely manner. All sites with a SES shall be kept free of refuse, waste, or hazardous or unsanitary conditions.

B. Time to repair/maintain. If the Zoning Administrator/Compliance Officer and/or Building official or electrical inspector determines that an SES fails to meet the requirements of this Ordinance and the Conditional Use approval, or that it poses a safety hazard or condition, the Zoning Administrator/Compliance Officer and/or Building official or electrical inspector shall provide notice to the owner of the safety hazard or condition. If the maintenance, repair, or safety hazard(s) are not corrected after a reasonable period (not to exceed 30 days; which may be reduced depending upon the immediacy of the problem or extended as documented by active corrections as determined by the Zoning Administrator/Compliance Officer and/or Building official or electrical inspector), the Township may take such actions as it deems appropriate, including making appropriate repairs (and charging the costs back to the owner). Where public safety or emergency conditions warrant, the Township may shut down the SES or portions thereof until the correction is made.

C. Costs to repair/maintain. The Township may assess all costs to the owner for such enforcement actions and use a portion of any security bond or escrow being held for such enforcement actions.

D. Broken SES components. At all times, while any of the SES components are present on the property, broken SES components shall be promptly repaired or removed from the site. There shall be no on-site storage of broken or malfunctioning SES components.

18. Abandonment and/or Decommissioning. The following are requirements for abandonment and/or decommissioning of an SES and SES components:

A. Updated decommissioning plan. Prior to decommissioning an SES, owner

shall submit an updated Decommissioning Plan to the Zoning Administrator/Compliance Officer, electrical inspector and/or Building inspector for review and approval. Under this plan all structures, concrete, piping, facilities and other project related materials above grade and any structures below grade shall be removed offsite and properly disposed. Access drives and roadbeds shall be removed at the option of the real property owner. The Township Board shall determine whether to allow certain aspects of a former commercial SES to remain, such as roadways or building structures. **Said updated Decommissioning Plan shall be recorded at the Muskegon County Register of Deeds.**

B. One year decommissioning time period. The decommissioning shall be complete, and the ground restored, within one (1) year from the date of abandonment, which time may be extended by the Zoning Administrator/Compliance Officer for up to one (1) additional year, provided substantial progress in being made, in the opinion of the Zoning Administrator/Compliance Officer.

C. Failure of complete removal and reclamation. Failure by the owner to complete removal and reclamation within the one (1) year time period (or after a time extension as described above) may result in the Township hiring a contractor to complete decommissioning and reclamation, with all of the expenses thereof charged to the owner and becoming a lien against the property. That shall be in addition to all of the other remedies available to the Township at law and in equity. In the event the Township enforces its rights under this section, the Township shall be entitled to recover from the owner its actual costs and actual attorney fees.

19. Abandonment. Any SES that is not operated for a continuous period of twelve (12) consecutive months shall be considered abandoned and the conditional use approval revoked.

Rose & Novak
ATTORNEYS AT LAW
8787 FERRY ST.
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Fax: (231)893-0006

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es M. Rose
Michael M. Novak

Ralph Rose, Jr.
1925-2015

September 13, 2023

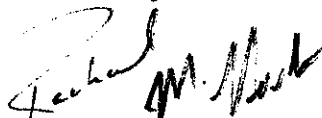
Michael E. Kobza Hall of Justice
Administration 4th Floor
County Administrator
990 Terrace
Muskegon, MI 49442

Re: Proposed Amendment to the Montague Township Zoning Ordinance

Dear County Administrator:

Enclosed is a copy of the proposed 8th amendment to the Montague Township Zoning Ordinance for review by the Muskegon County Planning Commission, pursuant to Michigan Law. Pursuant to township ordinance adoption procedures, I have enclosed a copy of the proposed amendment to the Montague Township Zoning. The Montague Township Planning Commission has voted to recommend this amendment. If you have any questions, please feel free to contact me.

Sincerely,



Rachael M. Novak

Enclosures

cc: Jeff King, Montague Township Supervisor

**MONTAGUE TOWNSHIP
NOTICE OF ADOPTION OF THE NINTH (9TH)
AMENDMENT TO THE
MONTAGUE TOWNSHIP ZONING ORDINANCE**

All persons please take notice that at a regular meeting of the Montague Township Board, held on the 11th day of March, 2025, at the Montague Township Hall at 8915 Whitbeck Road, Montague, the Township Board adopted the Ninth (9th) Amendment to the Montague Township Zoning Ordinance of April 9, 2002. A summary of the amendment is set forth below.

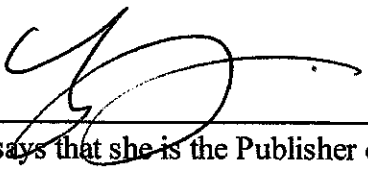
1. An amendment to Article 22 to Regulate Solar Energy Systems in accordance with PA 233. Said amendment allows the Township to retain local control over matters of regulation that are not governed by PA 233, specifically regarding solar energy facilities with a nameplate capacity of over 50 megawatts or more.
2. An amendment to Section 4.32 to Regulate Wind Energy Systems in accordance with PA 233. Said amendment allows the Township to retain local control over matters of regulation that are not governed by PA 233, specifically regarding wind farms with a nameplate capacity of 100 megawatts or more.
3. An amendment to Section 4.33 to Regulate Utility-Scale Battery Energy Storage Systems.
4. An amendment to the zoning map to create a Renewable Energy Overlay Zoning District for large-scale renewable systems. The property subject to the Overlay District is located on Old Channel Trail Tax Parcel Number 61-02-030-100-0004-00, and is presently zoned Forestry Recreational with Transitional Open Space.

Drew Roesler, Township Clerk
Publish: 3/23/2025

AFFIDAVIT OF PUBLICATION

State of Michigan

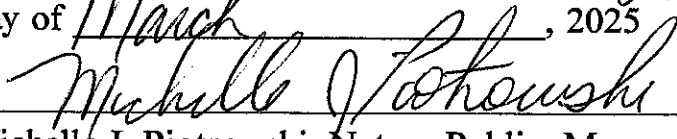
In the matter of : Notice of Adoption

Lois Tomaszewski: 

Being first duly sworn, says that she is the Publisher of White Lake Beacon, a newspaper published in the English Language for the dissemination of local or transmitted news and intelligence of a general character and legal news, which is a duly qualified newspaper, and that annexed hereto is a copy of a certain order taken from said newspaper, in which

DATE March 23, 2025

Subscribed and Sworn to before me this 24th day of March, 2025


Michelle J. Piotrowski, Notary Public, Mason County, Michigan

Acting in Muskegon County, Michigan

My commission expires 12/18/2026

**MONTAGUE TOWNSHIP
NOTICE OF ADOPTION OF THE NINTH (9TH)
AMENDMENT TO THE
MONTAGUE TOWNSHIP ZONING ORDINANCE**

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2. An amendment to Section 4.32 to Regulate Wind Energy Systems in accordance with PA 233. Said amendment allows the Township to retain local control over matters of regulation that are not governed by PA 233, specifically regarding wind farms with a nameplate capacity of 100 megawatts or more.
3. An amendment to Section 4.33 to Regulate Utility-Scale Battery Energy Storage Systems.
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Drew Roesler, Township Clerk
Publish: 3/23/2025

James M. Rose
Rachael M. Novak

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Ralph Rose, Jr.
1925-2015

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jmrose@roseattorney.com
rmnovak@roseattorney.com

February 3, 2025

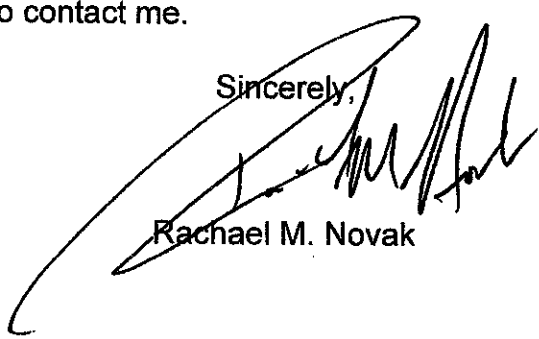
Muskegon County Administrator
1903 Marquette Ave Suite A111
Muskegon, MI 49442

Re: Proposed Amendment to the Montague Township Zoning Ordinance

Dear County Administrator:

Enclosed is a copy of the proposed 9th amendment to the Montague Township Zoning Ordinance and amendment to the Montague Township Zoning Map for review by the Muskegon County Planning Commission, pursuant to Michigan Law. Pursuant to township ordinance adoption procedures, I have enclosed a copy of the proposed amendment to the Montague Township Zoning. The Montague Township Planning Commission has voted to recommend this amendment. If you have any questions, please feel free to contact me.

Sincerely,



Rachael M. Novak

Enclosures

cc: Jeff King, Montague Township Supervisor

NOTE: DELETE SECTION 4.32(1) AND REPLACE WITH THE FOLLOWING

1. Purpose

The Township adopts this Section to render certain wind energy zoning regulations compatible with Public Act 233 of 2023 ("PA 233"), while retaining local control over matters of regulation that are not governed by PA 233, and to promote the public health, safety and welfare of Township residents. This Ordinance also modifies the areas in the Township where wind Farms are permitted. Provided further, any proposed Wind Farm shall be considered a Conditional Use. (Amended January 2025)

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NOTE: DELETE SECTION 4.32(3)(A) AND REPLACE WITH THE FOLLOWING

3(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 Renewable Energy Overlay zoning district Renewable Energy Overlay District (as set forth in the Zoning Map, and also in Section 4.33(6)), subject to the regulations and requirements of this Section and the review procedures and standards/criteria of this Zoning Ordinance. (Amended February 2025)

pg 57

NOTE: ADD THE FOLLOWING TO SECTION 4.32

27. Wind Farms under PA 233.

On or after November 29, 2024, and once PA 233 is in effect, the following provisions apply to Wind Farms with a nameplate capacity of 100 megawatts or more. To the extent these provisions conflict with the provisions in subsections above, these provisions control as to such Wind Farms. All provisions in the subsections above that do not conflict with this subsection remain in full force and effect. This subsection does not apply if PA 233 is repealed, enjoined, or otherwise not in effect and does not apply to Wind Farms with a nameplate capacity of less than 100 megawatts.

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A. **Setbacks.** Wind Farms must comply with the following minimum setback requirements, with setback distances measured from the center of the base of the wind tower:

Setback Description	Setback Distance
Occupied community buildings and dwellings on nonparticipating properties	2.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Residences and other structures on participating properties	1.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Nonparticipating property lines	1.1 times the maximum blade tip height

Public road right-of-way	1.1 times the maximum blade tip height to the center line of the public road right-of-way
Overhead communication and electric transmission, not including utility service lines to individual houses or outbuildings	1.1 times the maximum blade tip height to the center line of the easement containing the overhead line

B. *Shadow Flicker.* Each wind turbine generator must be sited such that any occupied community building or nonparticipating residence will not experience more than 30 hours per year of shadow flicker under planned operating conditions as indicated by industry standard computer modeling.

C. *Height.* Each wind tower blade tip must not exceed the height allowed under the Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR part 77, any amendments thereto, or any applicable successor standard.

D. *Noise.* Wind Farms must not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute; any amendments thereto, or any applicable successor standard.

E. *Lighting.* Wind Farms must be equipped with functioning light-mitigating technology. To allow proper conspicuity of a wind turbine generator at night during construction, a wind turbine generator may be lit with temporary lighting until the permanent lighting configuration, including the light-mitigating technology, is implemented. The Township may grant a temporary exemption from the requirements of this subparagraph if installation of appropriate light-mitigating technology is not feasible. A request for a temporary exemption must be in writing and state all of the following:

- (i) The purpose of the exemption.
- (ii) The proposed length of the exemption.
- (iii) A description of the light-mitigating technologies submitted to the Federal Aviation Administration.
- (iv) The technical or economic reason a light-mitigating technology is not feasible.
- (v) Any other relevant information requested by the Township.

F. *Radar Interference.* Wind Farms must meet any standards concerning radar interference, lighting (subject to subparagraph 27 (E)), or other relevant issues as determined by the Township.

G. *Environmental Regulations.* Wind Farms must comply with applicable state or federal environmental regulations.

H. *Host community agreement.* The applicant and/or owner shall enter into a host community agreement with the Township. The host community agreement shall require (among other things) that, upon commencement of any operation, the Wind Farm owner must pay the Township \$2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant and/or owner.

28. **Validity and Severability:** If any portion of this Article is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Article.

29. **Repealer:** All other provisions of this Zoning Ordinance inconsistent with the provisions of this Article on are hereby repealed to the extent necessary to give this Article full force and effect.

30. **Effective Date:** The amendments to this Article take effect seven (7) days after publication as provided by law.

(Amended August 2004)
(Amended February 2025)

NOTE: THE TOWNSHIP BOARD WILL CONSIDER ADDING A NEW SECTION 4.33

4.33 UTILITY SCALE BATTERY ENERGY STORAGE SYSTEMS AND RENEWABLE ENERGY OVERLAY DISTRICT

Section 4.33. Use: Utility-Scale Battery Energy Storage Facilities

1. Definitions

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- A. Battery management system: An electronic regulator that manages a Utility-Scale Battery Energy Storage System ("BESS") by monitoring individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and capable of shutting down the system before operating outside safe parameters.
 - B. Utility-scale battery energy storage facilities: One or more devices, assembled together, capable of storing energy in order to supply electrical energy, including battery cells used for absorbing, storing, and discharging electrical energy in a Utility-Scale BESS with a battery management system ("BMS").
 - C. Utility-scale battery energy storage system: A physical container providing secondary containment to battery cells that is equipped with cooling, ventilation, fire suppression, and a BMS.

2. General Provisions.

All Utility-Scale BESS are subject to the following requirements:

A. All Utility-Scale BESS must conform to the provisions of this Section and all county, state, and federal regulations and safety requirements, including applicable building codes, applicable industry standards, and National Fire Protection Association 855 "Standard for the Installation of Stationary Energy Storage Systems", or any applicable successor standard.

B. The Township may enforce any remedy or enforcement, including but not limited to the removal (at the Owner's expense) of any Utility-Scale Battery Energy Storage System, pursuant to the Zoning Ordinance or as otherwise authorized by law if the Utility-Scale Battery Energy Storage System does not comply with this Ordinance.

C. Utility-Scale BESS are permitted in the Township only as a Conditional Use, and only in the RO – Renewable Energy Overlay District, as set forth in this Article.

3. Application Requirements.

NOTE: DELETE SECTION 22.01 AND REPLACE WITH THE FOLLOWING

22.01 Purpose

The Township adopts this Ordinance to render certain solar energy zoning regulations compatible with Public Act 233 of 2023 ("PA 233"), while retaining local control over matters of regulation that are not governed by PA 233, and to promote the public health, safety, and welfare of Township residents. (Amended February 2025)

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NOTE: DELETE SECTION 22.04(1) AND REPLACE WITH THE FOLLOWING:

22.04(1). Conditional Use Permit required. A Conditional Use Permit is required for an SES in excess of 2,000 square feet, and is only allowed in the Renewable Energy Overlay District (as set forth in the Zoning Map, and also in Section 4.33(6)). The applicant shall also comply with all applicable federal, State of Michigan, local and county requirements, in addition to other applicable Township ordinances and codes. All plans, drawings or other material submitted for an SES Conditional Use Permit shall be produced by licensed professionals certified and/or licensed to produce such materials. (Amended January 2025)

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NOTE: ADD THE FOLLOWING TO ARTICLE 22

22.05 Solar Energy Systems under PA 233.

1. On or after November 29, 2024, and once PA 233 is in effect, the following provisions apply to SESs with a nameplate capacity of 50 megawatts or more. To the extent these provisions conflict with the provisions in the subsections above (regulating SESs), the provisions below control as to such SESs. All provisions in the subsections above that do not conflict with this subsection remain in full force and effect. This subsection does not apply if PA 233 is repealed, enjoined, or otherwise not in effect, and does not apply to SESs with a nameplate capacity of less than 50 megawatts.

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A. *Setbacks.* SESs must comply with the following minimum setback requirements, with setback distances measured from the nearest edge of the perimeter fencing of the facility:

Setback Description	Setback Distance
Occupied community buildings and dwellings on nonparticipating properties	300 feet from the nearest point on the outer wall
Public road right-of-way	50 feet measured from the nearest edge of a public road right-of-way
Nonparticipating parties	50 feet measured from the nearest shared property line

B. *Fencing.* Fencing for the SES must comply with the latest version of the National Electric Code as of November 29, 2024, and any amendments thereto, or any applicable successor standard.

C. *Height.* Solar panel components or SESs must not exceed a maximum height of twenty five (25) feet above ground when the arrays are at full tilt.

D. *Noise.* The SES must not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute, or any applicable successor standard.

E. *Lighting.* The SES must implement dark sky-friendly lighting solutions.

F. *Environmental Regulations.* The SES must comply with applicable state or federal environmental regulations.

G. *Host community agreement.* The applicant and/or owner shall enter into a host community agreement with the Township. The host community agreement shall require among other things that, upon commencement of any operation, the SES owner must pay the Township \$2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant and/or owner.

2. *Validity and Severability.* If any portion of this Article is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Article.

3. *Repealer.* All other provisions of this Zoning Ordinance inconsistent with the provisions of this Article are hereby repealed only to the extent necessary to give this Article full force and effect.

4. *Effective Date.* The amendments to this Article shall take effect seven (7) days following publication as provided by law.

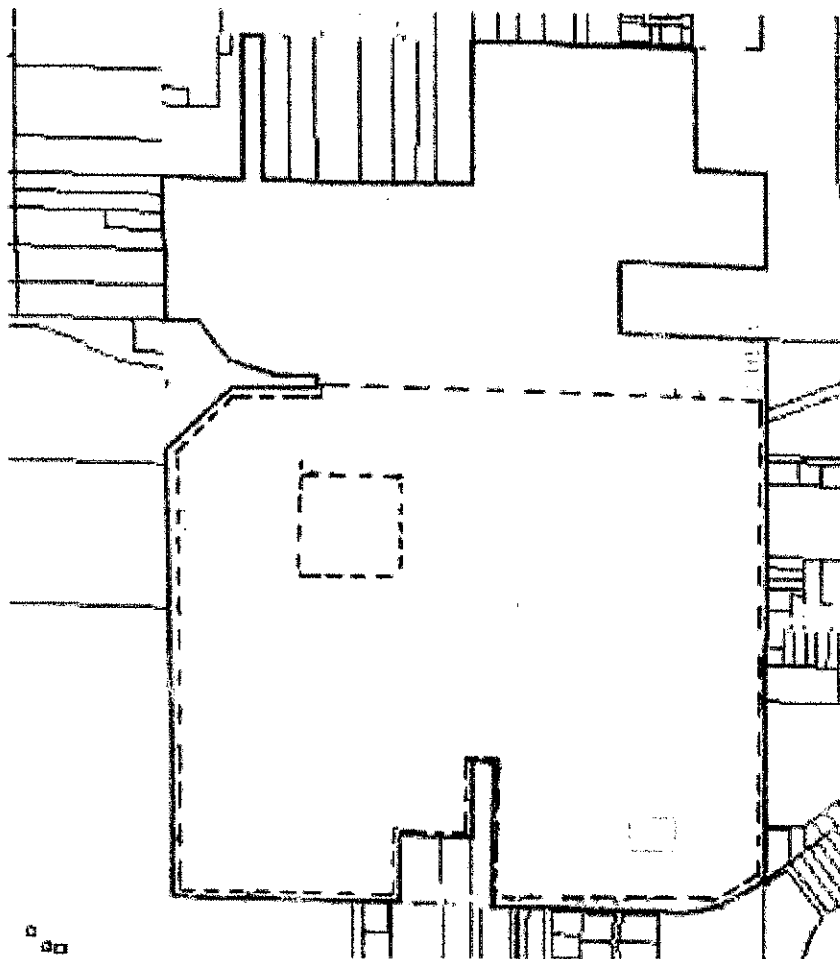
(Amended October 2023)

(Amended February 2025)

The Township has created an RO district to comply with PA 233.

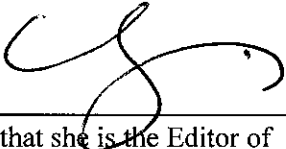
The designated area is part of parcel number 61-02-030-100-0004-00. The total acres of the entire parcel is approximately 837.92 acres per the Muskegon County GIS mapping system. The RO District will comprise of approximately 514.6 acres (per the Muskegon County GIS mapping system) within the above mention parcel. The reduced acreage exclude the area commonly known as the "Vault"

The boarders of the RO district are as follows: The Northern border shall run along the former Chassie System Railroad (CSX). The Southern border shall be Old Channel Trail. The Eastern border shall run along Whitbeck Road. The Western border shall runs along Lamos Road. A depiction of the RO district is set forth below. The dashed lines designate the boundaries of the RO district.



AFFIDAVIT OF PUBLICATION

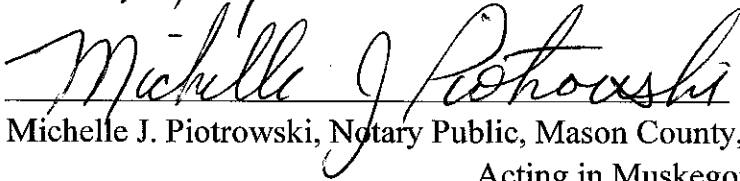
In the matter of 10th Amendment hearing

Lois Tomaszewski: 

Being first duly sworn, says that she is the Editor of White Lake Beacon, a newspaper published in the English Language for the dissemination of local or transmitted news and intelligence of a general character and legal news, which is a duly qualified newspaper, and that annexed hereto is a copy of a certain order taken from said newspaper, in which the order was published on the following dates:

DATE: May 24, 2026

Subscribed and Sworn to before me this 27th
day of May, 2026


Michelle J. Piotrowski, Notary Public, Mason County, Michigan
Acting in Muskegon County, Michigan

My commission expires 12/18/2026

MONTAGUE TOWNSHIP NOTICE OF PUBLIC HEARING RE: PROPOSED TENTH (10th) AMENDMENT TO THE MONTAGUE TOWNSHIP ZONING ORDINANCE

ALL INTERESTED PERSONS, please take notice that the Montague Township Planning Commission shall conduct a public hearing and receive comment upon a proposed amendment to the Montague Township Zoning Ordinance (the "Ordinance"). Such meeting shall be conducted at the Montague Township Hall at 8915 Whitbeck Road, Montague, commencing at 7:00 p.m. on June 8, 2026, regarding an amendment to add provisions that address Data Centers. A summary of the changes is set forth below.

PROPOSED AMENDMENTS:

Section 2.02 SPECIFIC TERMS. This section shall be amended to include the definition of "Data Center".

Section 3.43 CONDITIONAL USES. This section adds Data Centers as a conditional use to the Industrial District.

Section 4.34 DATA CENTERS. This is a new section that sets forth additional provisions, requirements and guidelines for Data Centers: General Provisions; Application Requirements; System and Location Requirements; Screening/Buffering; Security Fencing; Noise, Smoke and Vibration; Lighting; Water sources and usage; Signage; Underground Transmission; Fire Protection; Insurance; Permits; Decommissioning; Financial Security; Extraordinary Incidents and Events; Annual Reports; Inspections; Transferability; Nuisances Prohibited; Modular Data Centers Prohibited; Compliance with all Other Laws, Remedies; and Standards. It also includes provisions for Validity and Severability, Repealer and the Effective Date.

All interested persons may appear and submit written or oral comment regarding the proposed amendment. Copies of the proposed amendment may be inspected at the law offices of Rose & Novak at 8787 Ferry Street, Montague, Monday through Friday from 9:00 a.m. until 5:00 p.m. Written comment may be made prior to the hearing by sending, faxing (893-0006), or personally delivering such comment to Rose & Novak.

Montague Township Board
Dean Roesler, Township Chairperson

**MONTAGUE TOWNSHIP
NOTICE OF ADOPTION OF THE TENTH (10TH) AMENDMENT TO THE
MONTAGUE TOWNSHIP ZONING ORDINANCE**

All persons please take notice that at a regular meeting of the Montague Township Board, held on the 14th day of July, 2026, at the Montague Township Hall at 8915 Whitbeck Road, Montague, the Township Board adopted the Tenth (10th) Amendment to the Montague Township Zoning Ordinance of April 9, 2002. A summary of the amendment is set forth below.

Section 2.02 SPECIFIC TERMS. This section shall be amended to include the definition of "Data Center".

Section 3.43 CONDITIONAL USES. This section adds Data Centers as a conditional use to the Industrial District.

Section 4.34 DATA CENTERS. This is a new section that sets forth additional provisions, requirements and guidelines for Data Centers: General Provisions; Application Requirements; System and Location Requirements; Screening/Buffering; Security Fencing; Noise, Smoke and Vibration; Lighting; Water sources and usage; Signage; Underground Transmission; Fire Protection; Insurance; Permits; Decommissioning; Financial Security; Extraordinary Incidents and Events; Annual Reports; Inspections; Transferability; Nuisances Prohibited; Modular Data Centers Prohibited; Compliance with all Other Laws; Remedies; and Standards. It also includes provisions for Validity and Severability, Repealer and the Effective Date.

Drew Roesler, Township Clerk

Publish: July 26, 2026

**TOWNSHIP OF MONTAGUE
MUSKEGON COUNTY, MICHIGAN**

ORDINANCE NO. 4.34

AN ORDINANCE TO AMEND THE MONTAGUE TOWNSHIP ZONING ORDINANCE; TO AMEND SECTION 2.02 TO ADD A NEW DEFINITION FOR "DATA CENTERS"; TO AMEND SECTION 3.43 TO INCLUDE "DATA CENTERS" WITHIN THE "RO" ZONING DISTRICT (section 31) AND "I" INDUSTRIAL ZONING DISTRICT AS A CONDITIONAL USE; AND TO AMEND ARTICLE 4 TO ADD A NEW SECTION 4.34 "DATA CENTERS."

MONTAGUE TOWNSHIP, MUSKEGON COUNTY, MICHIGAN, ORDAINS:

Section 1. Amendment of Article 2. Section 2.02 "Specific Terms" of Article 2 "Definitions" of the Montague Township Zoning Ordinance is amended to add the following definition, which is inserted in alphabetical order and reads in its entirety as follows:

DATA CENTER: A structure or facility that houses information technology infrastructure and equipment for building, running, and delivering applications, and the storage of digital data. This includes Artificial Intelligence ("AI") Data Centers and facilities dedicated to operating data processing equipment or commercial cryptocurrency mining and transactions. A Data Center may comprise a corporate or enterprise, co-location, retail, wholesale, telecommunication, hyper-scale facility, or a combination thereof. Any facility with computing equipment exceeding 500 kW of continuous power draw. A Data Center facility may also include, but is not always limited to, data halls, offices, security centers, sound walls, screening, security fencing, signage, water, and wastewater utility systems, transmission lines, switchgears, transformers, inverters, generators, and other redundancy equipment, mechanical yards, air-cooled, liquid-cooled, or evaporative-cooling chiller systems, electrical distribution equipment, batteries, uninterruptible power supply (UPS) systems, power distributions systems (PDS), substations, and other similar equipment or accessory structures. A Data Center is also sometimes known as a point-of-presence facility or a data processing center.

Section 2. Amendment of Section 3.43. Section 3.43 "Conditional Uses" of Article 3 "I" Industrial District" of Article 3 "Zoning Districts" of the Montague Township Zoning Ordinance is amended to add the following subsection 31, which reads in its entirety as follows:

31. Data Centers

Section 3. Amendment of Article 4. Article 4 "Conditional Uses" of the Montague Township Zoning Ordinance is amended to add a new subsection 4.34, which reads in its entirety as follows:

4.34. DATA CENTERS

1. General Provisions.

- a. Data Centers are allowed in the Township only as a conditional use in Industrial Zoning District and RO – Renewable Energy Overlay District, subject to the requirements of this section.
 - b. Data Centers shall not be located in any portion of the Commercial District, Airport District, Mobile Home, Agricultural District, or the “R-1, R-2, R-3, or R-4” Residential Districts.
2. Application Requirements. In addition to the site plan submittal requirements of Article 8 and the conditional use requirements of Article 4 of this Ordinance, an applicant for conditional use approval of a Data Center shall provide the Township with all of the following:
 - a. Documentation establishing the ownership of each subject parcel; and any lease agreements, easements, or purchase agreements for the subject parcels.
 - b. An operations plan setting forth the parameters of the operation, the name and contact information of the operator, the applicant’s inspection protocol, emergency procedures, and general safety documentation.
 - c. Current photographs of the subject property taken within the prior ninety (90) days.
 - d. A site plan that includes all proposed structures and the location of all equipment, as well as all setbacks, the location of property lines, signage, fences, greenbelts and screening, drain tiles, easements, floodplains, bodies of water, proposed access routes, and road rights-of-way. The site plan shall also include a proposed landscaping plan. The site plan must be drawn to scale and must indicate how the Data Center shall be connected to the power grid. (Include specification of all equipment and specification of maximum building size and maximum number of buildings)
 - e. A written plan for maintaining the Data Center buildings, facilities and site in good condition and repair at all times, which is subject to the Township’s review and approval.
 - f. A copy of the applicant’s power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the Data Centers. Any contract the Data Center has with the power company must provide the same discount on electricity to the township in the form of a tax reduction, at the same percentage, every month. This discount shall be passed on to the township homeowners in a reduction of their property taxes. The increase in electricity rates cannot exceed 5% without compensation to all township homeowners. The electricity equity shall be effective throughout the life of the project, through completion of decommissioning.
 - g. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Data Center, including evidence of proposed commitments with property owners to ensure proper final

reclamation, repairs to roads, and other steps necessary to fully remove the Data Center (and its buildings and facilities) and restore the subject parcel(s), which is subject to the Township's review and approval.

- h. A plan for resolving complaints from the public or other area property owners concerning the construction and operation of Data Center, which is subject to the Township's review and approval.
- i. A plan for managing any hazardous waste, which is subject to the Township's review and approval.
- j. A fire protection plan, which identifies the fire and emergency rescue risks associated with the Data Center; describes the fire suppression system that shall be implemented; describes what measures shall be used to reduce the risk of fires reigniting (i.e., implementing a "fire watch"); identifies the water sources that shall be available for the local fire department to protect adjacent properties; identifies a system for continuous monitoring, early detection sensors, and appropriate venting; and explains all other measures that shall be implemented to prevent, detect, control, and suppress fires and explosions, which is subject to the Township's review and approval.
- k. A transportation plan for construction and operation phases, including any applicable agreements with the Muskegon County Road Commission and Michigan Department of Transportation, which is subject to the Township's review and approval.
- l. An agreement that the applicant shall indemnify, reimburse, and hold harmless the Township (and also the Township's officials, officers, employees, and agents) for, from and against any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Data Center, which is subject to the Township's review and approval.
- m. Supporting documentation identifying how proposed operations and facility design are utilizing current best practices to reduce impact on the environment, local community, and improve sustainability, which is subject to the Township's review and approval.
- n. Proof of environmental compliance, including compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.; Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); Part 365, Endangered Species Protection (MCL 324.36501 et. seq.); and any other applicable laws and rules in force at the time the Township considers the application, which is subject to the Township's review and approval.
- o. Environmental Impacts. Prior to the commencement of the conditional land use hearing, the applicant shall provide an environmental and community impact

analysis and report to the Township. The environmental and community impact analysis (which is subject to the Township's review and approval) shall include all of the following:

- (1) A narrative description of the nature of the on-site activities and operations, including the market area served by the facility, the hours of operation of the facility, the total number of employees on each shift, the times, frequencies, and types of vehicle trips generated, the types of materials stored, and the duration period of storage of materials.
 - (2) A site plan of the property indicating the location of proposed improvements, flood plains, wetlands, waterbodies, and cultural and historic resources on the property and within five hundred (500) feet of the boundaries of the property.
 - (3) Evidence that the disposal of any materials shall be accomplished in a manner that complies with state and federal regulations.
- p. Other Impacts. The applicant shall also provide an evaluation of the potential impacts of the proposed Data Center, which is subject to the Township's review and approval, both positive and negative, upon:
- (1) Emergency service, rescue, and fire protection.
 - (2) Water supply.
 - (3) Sewage disposal.
 - (4) Solid waste disposal.
 - (5) School facilities and school district budget.
 - (6) Municipal revenues and expenses.
 - (7) Threatened and endangered species habitat.
 - (8) Electrical grid.
 - (9) Thermal and heat dissipation.
 - (10) Loss of wildlife habitat and green space.
- q. Water conservation. Information regarding the use of water recycling/closed loop cooling systems for operations, including the most recent applications and best practices, is subject to the Township's review and approval.
- r. Power. The applicant shall provide written verification from the applicable energy service provider that states and verifies all of the following:

- (1) There is adequate capacity available on the applicable supply lines and substation for the Data Center use and to ensure that there is sufficient capacity available to serve the needs of other customers within the service area, consistent with the normal projected load growth envisioned by the subject matter experts.
 - (2) The utility supply equipment and related electrical infrastructure are sufficiently sized and can safely accommodate the proposed Data Center use during the power provider's peak consumption hours and at all other times.
 - (3) Any system designed for cooling and operation of the facility (electricity, water, or other means) shall be adequate and shall not negatively impact the surrounding area.
 - (4) The use shall not cause electrical interference or fluctuations in the line voltage on and off the operating premises.
- s. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative or subject matter expert.

3. System and Location Requirements.

a. Equipment.

- (1) All equipment used for any Data Center must conform to the fire protection and suppression standards of current NFPA 75 as relating to Data Centers. As may be amended.
- (2) The Data Center and all of its on-site facilities shall only use the off-site power/electricity grid and supply system (with electricity supplied by a state regulated utility), and no electricity or energy generators shall be utilized on the property where the Data Center is located (or within two miles of the Data Center property for energy/electricity use on the Data Center property unless the off-site generators are owned and operated by a public utility regulated by the State of Michigan), unless otherwise specified below. A generator or generators may be used on the property where the Data Center is located (or within 2 miles thereof unless as otherwise specified above) only in the following situations:
 - (a) Ancillary generation.
 - i. The use of secondary generators on site that are not utilized to power the data generating operations of the Data Center, but only ancillary functions such as heat, water circulation, and lighting, if approved by the Township.

- ii. The ancillary generator or generators are used only in emergency situations when the power/electricity is temporarily not being supplied to the Data Center property by a utility regulated by the State of Michigan due to storm, fire or other weather related, or other incident. Such generator(s) shall only use natural gas and fuel cells for electrical generation. Diesel fuel and other forms of backup power generation shall not be permitted.
- iii. The determination of whether there is an emergency such that otherwise prohibited generators can be utilized on site shall be made by the Township Supervisor. In no event shall noise from any generator or generators exceed 45 dBA Lmax at the property lines of the Data Center property. In no event shall turbines or jet engines on the Data Center property be used to generate electricity or power for or on the Data Center property or on or from a property within two miles thereof. While a generator or generators are being utilized on the Data Center property as allowed above, extra electricity or power generated therefrom can be sold or transferred back into the electric power grid for use off-site by a state-regulated utility, but only if such application is approved by the Zoning Administrator for the particular situation involved.
- iv. Testing of generation equipment shall only occur between 9:00 a.m. and 5:00 p.m. Monday through Friday.

(b) Primary generation.

- i. It is understood that advancements in electricity generation technology are occurring and that new generation technologies may have a reduced impact on the Township and surrounding land uses. At the Planning Commission's discretion, primary on-site electricity generation for a Data Center, which is otherwise prohibited, may be considered under the following circumstances:
 - 1. The applicant has proposed utilizing new electricity-generating technology and provided the Planning Commission with sufficient information and evidence that the electricity generation shall have little or no impact on the Township and surrounding land uses, and shall not create a hazard to human health.

2. Such new electricity generating technology shall not create noise that exceeds 45 dBA Lmax at the property lines of the Data Center property.
 3. Such new electricity-generating technology shall not create smoke or vibration at the property lines of the Data Center property.
 4. Such new electricity-generating technology shall not utilize turbines or jet engines on the Data Center property or on or from a property within two miles thereof.
 - b. Structures. All principal and accessory structures used for Data Centers shall be arranged, designed, and constructed to be harmonious and compatible with the site and with the surrounding properties. Total building footprint of principal and accessory buildings and structures shall not exceed 200,000 square feet.
 - (1) All structures shall have concrete foundations.
 - (2) All exterior facades shall have muted earth tone colors that shall blend the facility into the natural setting and existing environment, and shall not be defective, decayed or corroded.
 - (3) If intermodal shipping containers are utilized, such installation shall comply with current National Electrical Code standards.
 - c. Setbacks.
 - (1) All principal buildings, accessory structures, and Data Center Electric Utility Substations shall be set back at least six hundred (600) feet from all property lines. Required setback areas shall be left in their natural state to the extent feasible, and may require landscaping as directed by the Township Board.
 - (2) Parking lots for Data Centers shall be set back at least three hundred (300) feet from public road rights-of-way and all property lines.
 - d. Outdoor storage. Outdoor storage of materials, equipment, and supplies is prohibited.
4. Screening/Buffering. All Data Center operations shall provide buffer yards and screening along all property boundary lines, except for areas of ingress and egress into the site, as set forth by the Township Board, and in this Section 4.34
 - a. Service Areas. Loading bays, refuse collection areas, and service entrances shall be screened from view from existing or planned public roads and residential zoning districts. Screening may include year-round landscaping or a screen wall of an

appropriate height to mitigate visual impacts as determined by a line-of-sight study submitted by the applicant.

b. Mechanical/Electrical Equipment Screening.

(1) Ground-Mounted

- (a) Ground-mounted equipment adjacent to and serving the Data Center building(s) shall be completely screened behind an opaque wall or fence. When the equipment is located between buildings, a combination of walls and gates may be used at the openings between buildings.
- (b) When in or adjacent to an industrial use or zoning district, ground-mounted equipment screening is only required from any existing or planned public road.
- (c) Ground-mounted equipment is prohibited in any required setback.

(2) Rooftop

- (a) All rooftop-mounted equipment shall be screened by a parapet wall, equipment penthouse, or visually solid screen on all four sides that is constructed of materials complementary to those used in the exterior construction of the Data Center Principal Building. This shall be accomplished by setting the penthouse or screened area back from the façade of the building such that the top of the penthouse or screen is below a 45-degree line drawn from the top of the parapet. Rooftop equipment to be screened includes, but is not limited to, the following: cooling, ventilation, and power supply machinery.
- (b) Rooftop equipment that is visible above the parapet wall shall be set back from the exterior or parapet wall a distance no less than the height of said equipment.
- (c) Rooftop equipment may exceed the applicable maximum district building height when completely screened pursuant to this ordinance; however, at no point shall rooftop equipment exceed forty (40) feet in height above the immediate surrounding grade.
- (d) Rooftop equipment may occupy up to a maximum of 50% of the roof area when screened per this ordinance and, when combined with the height of the Data Center building, does not exceed the maximum building height requirement.

c. Buffering.

- (1) Data Center sites shall be buffered subject to the following requirements:
 - (a) Landscaping plans shall be subjected and approved by the Township Board.
 - (b) Data Center sites abutting residential zoning districts or collector/arterial roads must include an enhanced buffer yard with required plantings located on an earthen berm with a grade no steeper than 3:1. The minimum height of the berm shall be six (6) feet.
 - (c) A minimum 50-foot buffer yard shall be provided along the entire length of any public street frontage of any property upon which the Data Center is located and along any property line which abuts or is within 1,000 feet of an existing residential property line or zone, school, daycare center, hospital, place of worship, designated park, or public open space.
 - (d) A minimum 30-foot buffer yard shall be provided along all other property lines.
- (2) Utilities should be located outside of buffer yards to the maximum extent feasible to maintain a cohesive buffer yard, protect landscaping, and preserve open space. Utilities should be co-located when feasible to minimize the number of utility crossings through the required buffer yard, particularly when such crossings cannot be avoided.
- (3) Use of existing native vegetation for landscaping and screening is strongly encouraged and may be substituted for new berms and plantings, if approved by the Township Board.
- (4) Buffer yards along roadways shall be measured from the street right-of-way line.
- (5) Where a lot line drainage or utility easement is required, the buffer yard shall be measured from the inside edge of the easement.
- (6) Buffer yards shall not include environmental encumbrances such as, but not limited to, wetlands, wetland transition areas, riparian buffers, and flood hazard areas as may be required by government agencies.
- (7) The buffer yard shall include a dense landscape buffer consisting of the following:
 - (a) One (1) large evergreen tree per twenty-five (25) linear feet of buffer. The size of large evergreen trees shall be a minimum of eight (8) feet in height at the time of planting. Narrow/upright evergreen species may also be used within buffers at a ratio of

- 3:1. No more than 25% of the total required large evergreen species can be substituted with narrow/upright species.
- (b) One (1) canopy (shade) tree per 75 linear feet of buffer. The size of canopy (shade) trees shall be a minimum of 2 ½ inch caliper at the time of planting.
 - (c) One (1) ornamental/flowering tree per 50 linear feet of buffer. The size of ornamental/flowering trees shall be a minimum of eight (8) feet in height for multi-stemmed varieties, or 2 ½ inch caliper at the time of planting for single-stemmed varieties.
 - (d) Five (5) shrubs per 25 linear feet of buffer. Shrubs shall be fully branched and a minimum of three (3) feet in height at the time of planting. Shrubs shall be a combination of evergreen and deciduous species, with a minimum of 50% evergreen.
- (8) The landscape buffer shall be located along the outer edge of the buffer yard.
- (9) Plant material within buffer plantings shall meet the following requirements:
- (a) Be resistant to exhaust.
 - (b) Not identified on the most current MDNR invasive species or watch lists.
 - (c) Be hardy within USDA hardiness Zones 5a & 5b.
 - (d) Shall be planted on the top and the exterior of any berm in order to provide effective screening.
 - (e) Shall be arranged in groupings to allow for ease of maintenance and to provide a natural appearance.
 - (f) Shall provide a diversity in plant species, such that no one species accounts for more than 25% of each plant type.
 - (g) The plantings shall be arranged to provide a complete visual screen of the property at least 12 feet in height, measured in addition to the height of any required berm, within three (3) years.
- (10) The buffer yard may be located within the required building setback lines. No impervious surface is permitted within the buffer yard aside from access drives, sidewalks, and associated improvements.
- (11) Native plants shall be used.

(12) Applicant shall maintain the buffering throughout the life of the project and replace plants where and when needed.

5. Security Fencing. Security fencing must be installed and maintained around all electrical equipment related to the Data Center. Such fencing must be a minimum of seven (7) feet tall and must use materials, colors, textures, screening and landscaping that shall blend the facility into the natural setting and existing environment.

6. Noise, Smoke and Vibration.

a. The noise generated by the Data Center must not exceed 45 dBA Lmax, as measured at the property line of any Data Center parcel. Monitoring must be reviewed by a certified sound professional including buffering with equipment specifications. Sound modeling must also be reviewed at bi-annually and any defaults must be remedied within 30 days.

In the event that there is an audible noise due to the operation of a Data Center or digital mining use at adjacent property line(s), which contains a steady pure tone such as a whine, screech or hum, the maximum noise levels permitted for that Data Center or digital mining use shall be reduced by five (5) dB from the maximum noise levels referenced above.

b. No vibration produced by the Data Center shall be detectible by persons beyond the property lines of the Data Center parcel involved.

c. No smoke, fumes or similar element attributable to the Data Center shall be visible or detectible by human senses beyond the boundary lines of the Data Center parcel.

7. Lighting. All exterior lighting shall be full cutoff, shielded, and directed downward to prevent atmospheric light pollution into adjacent properties and public roadways. Lighting shall illuminate only areas approved for illumination by the Township Board. No detectable light from parking lot or building fixtures shall be present at any property boundary.

8. Water. The Data Center shall utilize a closed-loop, dry cooling, or other resource-conserving form of cooling system that results in near-zero wastewater discharge for heat exchange in all equipment. For the purposes of this Section, closed-loop shall mean a system where water or coolant is recirculated in a sealed system to remove heat without evaporation. The Township Board shall review and approve of any proposed cooling system and the owner and/or operator shall submit testing and review by independent or third-party documentation of the system annually for review by the Planning Commission. The Township shall be notified of any faults or failures in the system within twenty-four (24) hours and all repairs shall be completed within thirty (30) days. Should an exceptional discharge of water be necessary at any time, the owner/operator shall obtain all necessary discharge permits and approvals from local, state, or federal agencies. Such discharge approvals shall be provided to the Township prior to the discharge of any water.

9. Signage. The Data Center shall provide a 24-hour emergency contact sign visible at all access entrances. Signs shall include the company name if applicable, owner/representative name, telephone number, and corresponding local power company and telephone number.
10. Underground Transmission. All power transmission or other lines, wires, or conduits from the Data Center to any building or other structure must be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation.
11. Fire Protection.
 - a. Before any construction of the Data Center begins, the Township's fire department (or the fire department with which the Township contracts for fire service) shall review the fire protection plan submitted with the application. The fire chief shall determine whether the fire protection plan adequately protects the Township's residents and property and whether there is sufficient water supply to comply with the fire protection plan and to respond to fire or explosion incidents. If the fire chief determines that the plan is adequate, then the fire chief shall notify the Township or his or her designee of that determination. If the fire chief determines that the plan is inadequate, then the fire chief may propose modifications to the plan, which the applicant or operator of the Data Center must implement. The fire chief's decision may be appealed to the Township Board, and the Township Board shall hear the appeal at an open meeting. The Township Board may affirm, reverse, or modify the fire chief's determination. The Township Board's decision is final, subject to any appellate rights available under applicable law.
 - b. The applicant or operator may amend the fire protection plan from time-to-time in light of changing technology or other factors. Any proposed amendment must be submitted to the fire department for review and approval under subsection (a).
 - c. The Data Center must comply with the fire protection plan as approved by the fire chief (or as approved by the Township Board in the event of an appeal).
 - d. The Data Center must contain an internal fire suppression system that shall be reviewed and approved by the fire chief.
 - e. The applicant must provide the Township Fire Department and all of its contractors with the appropriate information, equipment, and training to address fires at the Data Center, on an annual basis, and training will be paid by the Data Center.
12. Insurance. The applicant or operator shall maintain property/casualty insurance and general commercial liability insurance in an amount of at least \$5 million per occurrence to be updated annually with inflation (based on the federal CPI) and reviewed and adjusted by the Township for adequacy every 5 years. The Township shall be listed as an additional insured on the insurance policy at all times. Proof of said policy shall be provided to the Township on an annual basis.

13. Permits. All required county, state, and federal permits shall be obtained before the Data Center begins operating. A building permit is required for construction of a Data Center regardless of whether the applicant or operator is otherwise exempt under state law. Proof of all permits shall be provided to the Township.
14. Decommissioning. If a Data Center is abandoned or otherwise nonoperational or dormant for a period of one year or longer, the property owner or the operator shall notify the Township and, in the case of abandonment, shall remove the system (as well as all buildings, structures and facilities) within six (6) months after the date of abandonment. Removal requires receipt of a demolition permit from the Building Official and full restoration of the site to the satisfaction of the Township Board. The site must be filled and covered with topsoil and restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Data Center that is never fully completed or operational if construction has been halted for a period of one (1) year.
 - a. Any buildings, structures, parking areas and grounds of a dormant or non-operating Data Center facility (or for what was formerly a Data Center facility) shall be kept in good maintenance, condition and repair at all times. Such duty also includes all landscaping, lawns, foliage and similar items and conditions on the property involved.
 - b. If a Data Center facility is dormant and the building(s) are not utilized extensively for another use allowed under the Zoning Ordinance for 1 years or longer of dormancy, then the Township can require that some or all of the buildings be removed (and all demolition materials be lawfully disposed of off-site) by the owner of the property.
15. Financial Security. To ensure the proper decommissioning of the Data Center upon abandonment or dormancy, the applicant must post financial security with the Township in the form of a security bond, irrevocable letter of credit or escrow payment in an amount equal to 125% of the total estimated cost of decommissioning, and shall be adjusted for any rate of inflation increases, code enforcement, demolition and reclamation, which cost estimate must be approved by the Township. The operator and the Township shall review the amount of the financial security every two (2) years to ensure that the amount remains adequate. This financial security must be posted within thirty (30) days after approval of the conditional land use application. The financial security must be approved by the Township as to type, wording, amount and the financial institution involved, and must be irrevocable for at least 30 years.
16. Extraordinary Incidents and Events. If the Data Center experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, then the applicant or operator must notify the Fire Department and Township within 24 hours. Applicable emergency services shall be notified immediately.
17. Annual Report. The applicant or operator must submit a report to the Township on or before January 1 of each year that includes all of the following:
 - a. Current proof of insurance.
 - b. Verification of financial security.

- c. A summary of all complaints, complaint resolutions, building safety issues, on-site injuries, and extraordinary incidents or events.
 - d. Sound testing, water loop testing, updated fire and safety plan and other relevant documentation.
 - e. Environmental testing, should the facility be located on or adjacent to any contaminated site or grounds.
18. Inspections. The Township may inspect the Data Center at any time by providing 24-hour advance notice to the applicant or operator.
 19. Transferability. A conditional land use permit for a Data Center is transferable to a new owner. The new owner must register their name and business address with the Township and must comply with this Ordinance and all approvals and conditions imposed and approved by the Township.
 20. Nuisance Prohibited. The Data Center or digital mining use shall be designed, maintained, constructed and operated at all times in a manner that does not create a nuisance by reason of heat, glare, fumes, dust, noise, vibration or odor beyond the property on which the Data Center is located.
 21. Modular Data Centers Prohibited. Pre-fabricated or “modular” Data Centers and shipping containers and similar prefab structures are prohibited. All Data Center uses shall be within site-built buildings.
 22. Compliance with all Other Laws. The design, construction, maintenance, operation, use and decommissioning of a Data Center shall comply with all other applicable local, state or federal laws or regulations, including, but not limited to, laws or regulations regarding the environment, pollution, and mitigation of potential impacts on threatened or endangered species.
 23. Remedies. If an applicant or operator fails to comply with this Ordinance or the conditional use approval, then the Township may pursue any remedy or enforcement procedure available, including, but not limited to, the required closure or removal of any Data Center pursuant to the Zoning Ordinance or as otherwise authorized by law. Additionally, the Township may pursue any legal or equitable action to abate a violation and the Township may recover any and all costs, including the Township’s actual attorney fees and costs. Violation of this Ordinance shall be subject to fines not exceeding \$10,000 per day of noncompliance.
 24. Standards. In addition to the site plan standards of Section 15.06 of this Ordinance and the conditional land use standards found in Article 4. of this Ordinance, no Data Center conditional land use request shall be approved by the Township Board unless it also finds that the proposed Data Center shall meet all of the following additional standards:
 - a. The use shall not adversely affect area water supplies or aquifers.

- b. The use shall not adversely affect area electricity reliability or access.
- c. The use shall not adversely affect area property values.
- d. The use shall be reasonable.
- e. The use shall not adversely affect the health, safety, and general welfare of the community.

Section 4. Validity and Severability.

If any portion of this Ordinance is found invalid by a court of competent jurisdiction for any reason, such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Repealer.

All other ordinances or ordinance provisions inconsistent or conflicting with the provisions of this Ordinance are hereby repealed but only to the extent necessary to give this Ordinance full force and effect.

Section 6. Effective Date.

This Ordinance takes effect upon the expiration of 7 days after publication as provided by law.

ROLL CALL VOTE:

YES:

NO:

ABSENT/ABSTAIN:

Declared adopted on:

Jeff King, Supervisor

Drew Roesler, Clerk