

# **ZONING ORDINANCE**

**MONTEREY TOWNSHIP**

**ALLEGAN COUNTY, MICHIGAN**

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**REVISED DECEMBER 1994**

**REVISED DECEMBER 1999**

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**MONTEREY TOWNSHIP ZONING ORDINANCE**

An ordinance to establish zoning regulation for the Township of Monterey, Allegan County, Michigan including regulation governing nonconforming uses, structures and buildings, to provide for the administration, enforcement and amendment of such regulations, to prescribe penalties for the violation of such regulations, and to provide for conflicts with other ordinances or regulations, all in accordance with the provisions of the Michigan Zoning Act PA 110 of 2006, as amended.

THE TOWNSHIP OF MONTEREY, ALLEGAN COUNTY, MICHIGAN,  
ORDAINS:

**CHAPTER 1-TITLE**

**SECTION 1.01 TITLE**

This Ordinance shall be known and may be cited as the “Monterey Township Zoning Ordinance.”

## **CHAPTER 2-PURPOSE, SCOPE AND LEGAL BASIS**

### **SECTION 2.01- PURPOSE**

This ordinance is based upon the Monterey Township General Development Plan and is designed (1) to promote the public health, safety, morals and general welfare; (2) to encourage the use of land in accordance with its character and adaptability and limit the improper use of land; (3) to avoid the overcrowding of population; (4) to provided adequate light and air; (5) to lessen congestion of the public roads and streets; (6) to reduce hazards to life and property; (7) to facilitate the adequate provision of a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and (8) to conserve the expenditure of funds for public improvements and services so as to obtain the most advantageous uses of land, resources and properties. This ordinance is adopted with reasonable consideration, among other things of the character of each zoning district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.

### **SECTION 2.02- SCOPE AND INTERPRETATION**

This ordinance shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the townships is a party. Where this ordinance imposes greater restrictions, limitations, or requirements upon (1) the use of buildings, structures, or land; (2) the height of buildings of structures; (3) lot coverage; (4) lot areas; (5) yards or other open spaces; or (6) any other use or utilization of land than are imposed or required by such existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provisions of this ordinance shall control.

### **SECTION 2.03-LEGAL BASIS**

This ordinance is enacted pursuant to the Michigan Zoning Act PA 110 of 2006, as amended.



## CHAPTER 3-ZONING DEFINITIONS

### SECTION 3.01 INTERPRETATION OF LANGUAGE

For the purpose of this Ordinance, the following rules of interpretation shall apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive and discretionary.
- D. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A "building" or "structure" includes any part thereof.
- F. The phrase "used for" includes "arranged for", "designed for" "intended for", "maintained for", or "occupied for".
- G. The word "person" includes an individual, a corporation, a partnership, a public utility, firm, an incorporated association, or any other similar entity.
- H. Unless the context clearly indicates the contrary, or a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or", "either . . . or", the conjunction shall be interpreted as follows:
  - 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - 2. "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
  - 3. "Either . . . or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- I. Terms not herein defined shall have the meaning customarily assigned to them.

### SECTION 3.02 DEFINITIONS

For the purpose of this Ordinance the terms and words herein are defined as follows:

**ABANDONMENT:** the act of ceasing the regular use or maintenance of a lot, building, or

structure for a period of time as specified in this Ordinance.

**ACCESSORY USE, BUILDING OR STRUCTURE:** A use, building, or structure which is clearly incidental to, customarily found in connection with, subordinate to, and is located on the same zoning lot as the principal use to which it is exclusive.

**ADJACENT:** See LOT, ADJACENT.

**ADULT DAY CARE FACILITY:** A facility which provides daytime care for any part of a day but less than twenty-four (24) hour care for functionally impaired elderly persons provided through a structured program of social and rehabilitative or maintenance services in a supportive group setting other than the client's home. Such facilities are not licensed; however those receiving funds through an Area Agency on Aging must comply with adult day care standards promulgated by the Michigan Office of Services to the Aging.

**ADULT USE:** Any commercial or recreational establishment which at all times excludes minors by virtue of age, including adult bookstores, adult motion picture theaters, adult mini motion picture theaters, adult drive-in theaters, adult massage parlors, adult modeling studios, and eating and drinking places with sexually oriented entertainment.

**AGRICULTURAL USE:** A use of any land, building, or structure used for a purpose of animal husbandry or producing grain, fruit, nursery stock, dairy products, vegetables, livestock or fowl or other crops.

**ALLEY:** an easement intended as a passage providing continuous access to the rear of properties and not intended for general traffic.

**ALTERATIONS:** Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as wall, partitions, stairways, columns, beams, girders; any change in the width or number of exits; any substantial changes in the roof or exterior walls; any change in the location of a building; any change in the number of off-street parking or loading area or means of egress and ingress to the site; or any change which may be referred to herein as "altered" or "reconstructed" or "change of use".

**ALTERNATIVE TOWER STRUCTURE:** Man-made trees, clock towers, bell steeples, light poles, and other similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers

**ANIMAL, WILD OR EXOTIC:** Any animal not domesticated by humans or any animal which a person is prohibited from possessing by law. Wild or exotic animals shall include, but shall not be limited to the following: alligator and crocodile (family), deer (family), opossum (family); badger, wild dog or wolf (family); primate excluding human (family); bear, raccoon, ferret, skunk, wild cat (family); lemur, spider (poisonous); coyote; lizard; snake and other reptile (poisonous); weasel (family); wild boar or swine (family); and marten; large animals typically kept in zoological gardens, not including barn yard animals or petting zoos; animals that pose rabies risk.

**ANTENNA:** Any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital, signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals, or other communication signals.

**APARTMENT:** See DWELLING, MULTIPLE FAMILY

**APPEAL:** An entreaty or demand for a hearing or review of facts and/or actions in connection with the public enforcement of this Ordinance.

**ARCHITECTURAL FEATURES:** Architectural features of a building including cornices, eaves, gutters, sills, lintels, bay windows, chimneys and decorative ornaments.

**AREA, GROSS SITE:** The total area of a planned unit development site including flood plains and water bodies.

**AUTOMOBILE:** Unless specifically indicated otherwise, "automobile" shall mean any vehicle including cars, trucks, vans, motorcycles, and the like.

**AUTOMOBILE FILLING STATION:** A place used for the retail sale and dispensing of fuel or lubricants, either full or self-service, together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Automobile filling stations may also incorporate a convenience store operation as an accessory use, provided it is clearly incidental to the filling station use. Parking requirements for filling station/convenience store operations shall be computed by adding together the parking space requirements for each separate use.

**AUTOMOBILE REPAIR:** Major or minor repair of automobiles defined as follows:

- A. **Minor Repair:** Engine tune-ups and servicing of brakes, air conditioning, exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.
- B. **Major Repair:** Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rust-proofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the automobiles on the premises overnight.

**AUTOMOBILE REPAIR GARAGE:** A premise primarily used for general automobile repair wholly within enclosed buildings, including engine or transmission building; rebuilding or reconditioning of motor vehicles; collision service such as body, frame, or fender straightening and repair, overall vehicle painting or rust-proofing; and other related activities.

**AUTOMOBILE SERVICE STATION:** A building or structure designed or used for the retail

sale of fuel (stored only in underground tanks), lubricants, air, water coolants and other operating commodities for motor vehicles or which may include retail sale of tires, batteries, and similar accessories and the making of minor repairs to vehicles or parts thereof totally enclosed within a building and that do not normally require storing such vehicles on the premises overnight.

Automotive Service Station shall not including bumping, painting, refinishing, major repairs and overhauling, steam cleaning, rust-proofing, high volume motor vehicle washing, or sales of new or used cars, trucks, motorcycles or other land vehicles.

**AUTOMOBILE WASH ESTABLISHMENT:** An activity or building, or portion thereof, the primary purpose of which is that of washing motor vehicles, either with self-service mechanisms or with the use of an automated conveyor system.

**BANK:** An establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds by drafts or bills of exchange.

**BASEMENT:** That portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling. A basement shall not be included as a story for height measurement.

**BED-N-BREAKFAST INN:** A dwelling in which overnight accommodations (not to exceed fourteen (14) continuous days) are provided or offered for transient guests for compensation by the owners and residents therein; said facilities may include meal service.

**BEDROOM:** Any private room in a dwelling unit suitable for regular use for sleeping purposes. Bedrooms include rooms designated on development floor plans as dens, studies, or libraries but exclude living rooms, family rooms, dining rooms, kitchens, bathrooms, laundry rooms, and mud rooms. Any room designated as other than a bedroom but which in the judgment of the Township Planning Commission would normally be usable for sleeping purposes shall be considered a bedroom.

**BERM:** A mound of earth used to shield, screen, and buffer undesirable views and separate incompatible land uses.

**BIKEWAY:** Pedestrian or non motorized vehicular circulation routes built according to the standards of the Township or other agency with right-of-way jurisdiction, as applicable.

**BILLBOARD (OFF PREMISE SIGN):** Any non accessory advertising sign, device, design, words, letters, number or trademark which makes anything known to the general public and may be the principal use of the lot or parcel on which it is located.

**BLOCK:** The property bounded by a street or by a combination of streets and public lands, rights of way, rivers or streams, boundary lines of the Township, or any other barrier to the continuity of development.

**BOARDING HOUSE:** a dwelling in which lodgers rent one or more rooms for more than one

night and where meals are provided.

**BOAT:** Boats, floats, rafts, and the attached normal equipment to transport the same on highways.

**BUFFER ZONE:** A strip of land often required between certain zoning districts or land uses reserved for plant material, berms, walls, or fencing to serve as a visual barrier.

**BUILDABLE AREA:** The area of a lot which is defined by the minimum setback requirements within which building construction is permitted by the terms of this Ordinance.

**BUILDING:** Any temporary or permanent structure, having a roof or other covering, and used or built for the shelter or enclosure of persons, animals, property, or materials of any kind. A building shall include tents, awnings, and carports; and also semitrailers, vehicles, mobile homes, or pre manufactured or precut structures, erected on-site, above or below ground, designed primarily for shelter rather than as a means of conveyance. A building shall not include such structures as signs, fences or smokestacks, but shall include structures such as storage tanks, grain elevators, coal bunkers, oil cracking towers, or similar structures.

**BUILDING, ACCESSORY:** See ACCESSORY USE, BUILDING, OR STRUCTURE.

**BUILDING, COMPLETELY ENCLOSED:** A building separated on all sides from the adjacent open space or from other buildings or structures by a permanent roof and exterior walls having only window and normal entrance or exit doors.

**BUILDING, DETACHED:** A principal building surrounded by open space.

**BUILDING HEIGHT:** The vertical distance measured from the mean average ground level at the front building line to the highest point of the roof surface in the case of a flat roof; to the deck line of mansard roofs; to the mean height level between the eaves and ridge of gable, studio hip and gambrel roofs; and 75 percent of the height of an "A" frame. Chimneys, spires, antenna, and similar projections other than signs shall not be included in calculating building height.

**BUILDING LINE:** A line, parallel to the front lot line, which separates all parts of a building from the adjacent open spaces on the same lot. For the purposes of this Ordinance, a minimum building line is the same as a required setback line.

**BUILDING PERMIT:** The written authority issued by the building inspector permitting the construction, removal, moving, alteration, demolition, or use of a building in conformity with the provision of this Ordinance

**BUILDING, PRINCIPAL:** A building or group of buildings in which is conducted the main or principal use of the lot on which the building is situated. (See "BUILDING, ACCESSORY" and "USE, PRINCIPAL".)

**BUILDING, TEMPORARY:** A building which is not permanently affixed to the property, and

is permitted to exist for a specific reason for a specific period of time. An example of a temporary building is a trailer used on construction site.

**BUMPER BLOCKS:** Concrete or cement cast units located at one end of each parking space, designed to protect buildings, walls, fences, sidewalks or landscaping from damage by vehicles.

**CAMPGROUND:** a tract or parcel of land where three (3) or more campsites are used, rented, or leased or reserved for use, rent, or lease to accommodate camping parties.

**CAMPER, PICK-UP:** A recreational unit designed to be mounted on a pick-up or truck chassis, with sufficient equipment to render it suitable for use as a temporary lodging for travel, recreational, and vacation uses.

**CARETAKER LIVING QUARTERS:** An independent residential dwelling unit designed for and occupied by one or two persons, of which at least one is employed to look after goods, buildings, or property on the parcel on which the living quarters are located.

**CERTIFICATE OF OCCUPANCY:** A certificate issued by the building inspector, after final inspections, indicating his or her opinion that all the provisions of this Ordinance are being complied with and met. No building or structure or use for which a building permit has been issued shall be occupied until the building inspector has, after final inspection, issued a Certificate of Occupancy (CO). The issuance of a Certificate of Occupancy shall in no case be construed as waiving any provisions of this Ordinance

**CEMETERY:** Land used for the burial of the dead including columbariums, crematories, and mausoleums.

**CHURCH OR SYNAGOGUES:** Any structure wherein persons regularly assemble for religious activity including customary ancillary or accessory uses and activities.

**CLINIC, VETERINARY:** A place for the care, diagnosis, and treatment of sick or injured animals, and those in need of medical or minor surgical attention. A veterinary clinic may include customary pens or cages enclosed within the walls of the clinic building.

**CLINIC, MEDICAL:** An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

**CLUB, HEALTH:** Any establishment providing physical culture or health services, including health clubs, racquetball or tennis clubs, reducing salons, or tanning salons.

**CLUB OR LODGE, PRIVATE:** A nonprofit association of persons who are bona fide members paying dues which owns or leases premises, the use of which is restricted to members and their guests. The facilities owned or used by such organization may be referred to as a "club"

or "lodge" in this Ordinance.

**CLUSTER HOUSING:** A group of buildings and especially dwellings built close together to form relatively compact units on a sizeable tract in order to preserve open spaces and environmentally sensitive areas larger than the individual yards for common recreation.

**COMMERCIAL CENTER, PLANNED:** A business development under single ownership consisting of two (2) or more retail or service outlets characterized by common architecture, a pedestrian and vehicle circulation system, and off-street parking.

**COMMERCIAL, VEHICLE:** A truck or motor vehicle with cab and chassis and with a stake rack body, dump body, wrecker body, tanker body or any other body, the mounted height of which exceeds the height of the cab roof more than eight (8) inches. Any truck or motor vehicle which has a commercial license plate and is designed to accommodate a body length in excess of 9 feet. Commercial vehicles shall not include motor homes or recreational vehicles, but shall include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, semi-trucks, tractors and trailers.

**CONDOMINIUM:** A system of separate ownership of individual units and/or multiple unit projects according to Public Act 59 of 1978, as amended. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners.

**Condominium Act:** State of Michigan Public Act 59 of 1978, as amended.

**Condominium, Contractible:** A condominium project from which any portion of the submitted land or building may be withdrawn in pursuant to express provisions in the condominium documents.

**Condominium, Conversion:** A condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.

**Condominium - Convertible Area:** A unit or portion of the common elements of the condominium project referred in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to provisions in the condominium documents and in accordance with this Ordinance and the Condominium Act.

**Condominium, Expandable:** A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.

**Condominium - General Common Element:** The common elements other than the limited common elements intended for the common use of all of the co-owners.

**Condominium - Limited Common Element:** A portion of the common elements



reserved in the master deed for the exclusive use of less than all of the co-owners.

**Condominium - Site Condominium Project:** A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision. A residential site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this Ordinance.

**Condominium Subdivision Plan:** Drawings and information which show the size, location, area, and boundaries of each condominium unit, building locations, the nature, location, and approximate size of common elements, and other information required by Section 66 of Public Act 59 of 1978, as amended.

**Condominium Unit, Site (i.e., Site Condominium Lot):** The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium site shall become a limited common element. The term “condominium unit site” shall be equivalent to the term “lot” for purposes of determining compliance of a site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, minimum lot coverage, and maximum floor area ratio.

**CONDOMINIUM UNIT:** The portion of the condominium project designed and intended for separate ownership as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, recreational, time-share unit, or any other type of use.

**CONVALESCENT HOME:** See NURSING HOME.

**CURB CUT:** The entrance to or exit from a property provided for vehicular traffic to or from a public or private thoroughfare.

**DAY CARE:**

**Day Care Center:** A facility other than a private residence receiving more than six (6) pre-school, school age children, or elderly adults for group day care for periods of less than twenty-four (24) hours a day.

**Day Care Home:** A private home in which not more than six (6) minor children are received for care and supervision for periods less than twenty-four (24) hours a day, unattended by a parent or guardian.

**DECK:** An open, horizontal platform attached to the principal residential structure and that is used for outdoor leisure or recreational activities. The platform shall not be enclosed by a roof or walls or other screened or framed enclosure.

**DENSITY:** The number of dwelling units situated on or to be developed per net or gross acre of land.



**DETENTION FACILITY:** A facility designed for holding storm water runoff for a short period of time and then releasing it to the natural watercourse where it returns to the hydrologic cycle. A Retention Facility is a facility designed to hold storm water run-off permanently.

**DEVELOPMENT:** The construction of a new building or other structures on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

**DEVELOPMENT PLAN:** A scaled drawing which shows the existing conditions, the location and dimensions of improvements upon a parcel of land, including but not limited to, location and size of buildings, driveways, parking areas, landscaping, sidewalks, signs, sewage systems, and drainage facilities, environmental features, and other elements required herein as applicable to the proposed development to ensure compliance with this Ordinance.

**DISTRIBUTION CENTER:** A use which typically involves both warehouse and office/administration functions, where short and/or long term storage takes place in connection with the distribution operations of a wholesale or retail supply business. See also WAREHOUSE.

**DISTRICT:** A portion of Monterey Township within which, on a uniform basis, certain uses of land and/or building are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

**DRAINAGE WAYS AND STREAMS:** Existing permanent or intermittent watercourses.

**DRIVE-IN ESTABLISHMENT:** A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicles. Examples include but are not limited to, restaurants, cleaners, banks, and theaters.

**DRIVE-THROUGH ESTABLISHMENT:** A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to service patrons from a window or booth while in their motor vehicles, rather than within a building or structure, so that consumption off-premises may be facilitated.

**DRIVEWAY:** That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

**DUMPSTER:** A container used for the temporary storage of rubbish, pending collection, having a capacity of at least two (2) cubic yards.

**DWELLING:** A building or portion thereof, containing sleeping, kitchen, and bathroom facilities designed for and occupied by one family, excluding hotels, motels, and tourists homes. In no case shall a travel trailer, motor home, automobile, tent or other portable building defined as a recreational vehicle, be considered a dwelling. In the case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling

unit for the purposes of this Ordinance.

**DWELLING, MANUFACTURED:** A building or portion of a building designed for long-term residential use and characterized by all of the following:

- A. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and
- B. The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities; and
- C. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on a site.

**DWELLING, MOBILE HOME:** A structure, transportable in one (1) or more sections, which is built upon a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Recreational vehicles as described and regulated herein shall not be considered "mobile homes" for the purposes of this Ordinance. A mobile home is a type of manufactured housing.

**DWELLING, MULTIPLE-FAMILY:** A building designed for and occupied by three (3) or more families living independently with separate housekeeping, cooking, and bathroom facilities for each. Multiple family dwellings units include the following:

- A. **Apartment:** An apartment is an attached dwelling unit with party walls, contained in a building with other apartment units which are commonly reached off of a common stair landing or walkway. Apartments are typically rented by the occupants. Apartment buildings often have a central heating system and other central utility connections and common yard space.
- B. **Efficiency Unit:** An efficiency unit is a type of multiple family or apartment unit consisting of one (1) principal room, plus bathroom and kitchen facilities, hallways, closets, and/or a dining alcove located directly off the principal room.

**DWELLING, ONE-FAMILY OR SINGLE-FAMILY:** A detached building containing not more than one dwelling unit designed for residential use, provided:

- A. It complies with the minimum square footage requirements of this Ordinance for the zone in which it is located.
- B. It has a minimum width across front, side and rear elevations of 14 feet and complies in all respects with the Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Building Code,

then and in that event, such federal or state standard or regulation shall apply; further provided that the provisions of this section shall not have the effect of making one family dwellings, which exist as of the effective date of this Ordinance, nonconforming.

- C. It is firmly attached to a permanent foundation constructed on the site in accordance with the Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for one- family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Housing Commission and shall have a perimeter wall as required.
- D. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels and towing mechanism removed. Additionally, no dwelling shall have any exposed undercarriage or chassis.
- E. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction equal to or of better quality than the principal dwelling, which storage area shall be equal to 10 percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
- F. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the Building Official upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Board of Zoning Appeals within a period of thirty (30) days from the receipt of notice of said Building Official's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of single family "dwelling" as well as the character, design and appearance of one or more residential dwellings to the extent of less than twenty (20) percent of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the Township.

- G. The dwelling contains no additions or rooms or other areas which are not constructed with a quality of workmanship equal to the original structure, including

permanent attachments to the principal structure and construction of foundations as required herein.

- H. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- I. The foregoing standard shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the Ordinance of the Township pertaining to such parks.
- J. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable building code provisions and requirements.

**DWELLING, TWO-FAMILY OR DUPLEX:** A detached building, designed exclusively to be occupied by two (2) families living independently of each other, with separate housekeeping, cooking, and bathroom facilities for each.

**DWELLING UNIT:** One or more rooms, along with bathroom and kitchen facilities, designed as a self contained unit for occupancy by one family for living, cooking, and sleeping purposes.

**DWELLING UNIT, SINGLE-FAMILY ATTACHED OR TOWNHOUSE:** A townhouse is an attached single-family dwelling unit with party walls, designed as part of a series of three (3) or more dwellings, with its own front door which opens to the outdoors at ground level, and typically with its own basement utility connections, and front and rear yards. Townhouses are also commonly known as row houses.

**EASEMENT:** Any private or dedicated public way that provides a means of access to property. The term "easement" may also refer to utility easements which give public or private utility companies the right to use land for the construction and maintenance of utilities.

**ERECTED:** The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection.

**ESSENTIAL SERVICES:** The term "essential services" shall mean the erection, construction, alteration or maintenance by public or quasi public utilities or municipal departments or Township certified cable television companies of underground, surface or overhead gas, steam, electrical, fuel or water systems for the purposes of transmission, distribution, collection, communication, supply, or disposal; including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment,

which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, and welfare of the public. Essential services shall not include storage yards, sales or business offices, or commercial buildings or activities. Telecommunication towers or facilities, alternative tower structures, and wireless communication facilities antenna are specifically excluded from this definition.

**EXCAVATION:** The removal of sand, stone, gravel, or fill dirt below the average grade of the surrounding land and/or road grade, whichever shall be the highest, excluding common household gardening and ground care.

**FAMILY:**

- A. An individual or group of two (2) or more persons related by blood, marriage or adoption, together with foster children or servants of the principal occupants, with not more than one additional unrelated persons, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
- B. A collective number of individuals living together in one dwelling unit, whose relationship is of a continuing, non-transient, domestic character, and who are cooking and living as a single, nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

**FARM:** All of the contiguous neighboring or associated land operated as a single unit for agricultural production by the owner operator, manager, or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; also including establishments operated as bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, and apiaries. For the purposes of this Ordinance, farms shall not include establishments for keeping or raising fur bearing animals, riding or boarding stables, dog kennels, game fish hatcheries, stockyards, or gravel or sand pits, unless such establishments are combined with other bona fide farm operations listed above which are located on the same continuous tract of land.

No farms shall be operated for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a normal cycle or one (1) year.

A farm permitted by this Ordinance is not intended nor implied to permit trucking equipment and/or sales, contractor yards or any other activities other than those activities incidental to the bona fide farm.

**FENCE:** An accessory structure of definite height and location intended to serve as a physical barrier to property ingress or egress, a screen from objectionable vista or noise, a marker, an enclosure in carrying out the requirements of this Ordinance, or for decorative use.

**FILL, FILLING:** The deposit or dumping of any matter onto or into the ground, except for common household gardening, farming, and general ground care.

**FLOODPLAIN:** the area adjoining the channel of a natural stream or river which has been or may be covered by floodwater.

**FLOOR AREA:** The area of a building defined as follows.

- A. **Floor Area, Gross:** The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.
- B. **Floor Area, Net:** See FLOOR AREA, USABLE RESIDENTIAL and FLOOR AREA, USABLE NONRESIDENTIAL.
- C. **Floor Area, Usable Residential:** The gross floor area minus areas in unfinished basements or attics, attached garages, and enclosed or unenclosed porches.
- D. **Floor Area, Usable Nonresidential:** The sum of the horizontal areas of each floor, measured from the interior faces of the exterior walls, including all areas used for, intended to be used for, and accessible for the sale of merchandise, provision of services, or service to patrons, clients or customers. Floor area which issued for or intended to be used for the storage or processing of merchandise, or for utilities shall be excluded from the computations of Usable Nonresidential Floor Area.

**FOSTER CARE HOME:** See STATE LICENSED RESIDENTIAL FACILITY.

**FOSTER CHILD:** A child unrelated to a family by blood or adoption with whom he or she lives for the purposes of care and/or education.

**GARAGE, PRIVATE:** An accessory building used or designed to be used primarily for the storage of motor vehicles, boats, or trailers owned and used by the occupants of the building to which it is accessory. A private garage may be either attached to or detached from the principal structure. Private garages shall not have public repair facilities.

**GARBAGE:** All wastes, animal, fish, fowl, or vegetable matter incidental to the preparation, use, and storage of food for human consumption, or spoiled food.

**GARDEN CENTER:** An establishment with retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies, landscaping materials, and equipment.

**GAS STATION:** See AUTOMOBILE FILLING STATION and AUTOMOBILE SERVICE STATION.

**GLARE:** The effect produced by brightness or a source of illumination sufficient to cause



annoyance, discomfort, or loss in visual performance and visibility.

**GOLF COURSE OR COUNTRY CLUB:** The premises upon which the game of golf is played, including clubhouses, parking lots, swimming pools, tennis courts, or other facilities or uses customarily incidental to a golf course or country club.

**GOLF DRIVING RANGE:** An area or parcel of land which includes golf tee areas and associated facilities, the purpose of which is to practice golf shots.

**GRADE:** A grade is the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

**GRADE, AVERAGE:** The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure.

**GRADE, FINISHED:** The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.

**HAZARDOUS SUBSTANCES:** Any chemical or other material which, by virtue of its inherent properties and not solely by the manner in which it is used, has the potential to be injurious to the public health, safety, and welfare even in small quantities with the exception of farming operations. Uses and facilities which use, store or generate hazardous substances in quantities greater than one hundred (100) kilograms per month, or twenty-five (25) gallons per month, whichever is less, shall be subject to site plan requirements.

**HOME OCCUPATION:** Any occupation conducted within a dwelling unit or accessory building and carried on by the inhabitants thereof. Home occupations may provide for one (1) full-time non-resident employee. Home occupations shall be clearly incidental and secondary to the use of the dwelling for living purposes, shall not change the character thereof, and shall not endanger the health, safety, and welfare of any other persons residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such occupation, professions or hobby.

**HOSPITAL:** An institution which is licensed by the Michigan Department of Health to provide in-patient and out-patient medical and major surgical services for the sick and injured, and which may include such related facilities as laboratories, medical testing services, central service facilities, and staff offices.

**HOTEL:** A building occupied as a more or less temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of one (1) bedroom and a bath, occupied for hire, in which access to at least fifty percent (50%) of the lodging units is through a common entrance, and in which provision is not made for cooking in the individual units. Hotels customarily provide services such as desk service, maid service, laundering of linens, etc.

**HOUSING, ELDERLY:** An institution other than a hospital or hotel, which provides room and board to non-transient persons primarily sixty (60) years of age and older. Housing for the

elderly may include:

- A. **Senior Apartments:** Multiple-family dwelling units occupied by persons fifty-five (55) years of age or older.
- B. **Elderly Housing Complex:** A building or group of buildings containing dwellings where the occupancy is restricted to persons sixty (60) years or older or couples where either the husband or wife is sixty (60) years of age or older.
- C. **Congregate or Interim Care Housing:** A semi-independent housing facility containing congregate kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.
- D. **Dependent Housing Facilities:** Facilities such as convalescent homes and nursing homes which are designed for older persons who need a wide range of health and support services, including personal nursing care.

**INDUSTRIAL MANUFACTURING:** the use of machines, tools, and labor to transform raw materials or previously made components into finished goods for sale.

**INGRESS AND EGRESS:** As used in this Ordinance, "ingress and egress" generally is used in reference to a driveway which allows vehicles to enter or leave a parcel of property, or to a sidewalk or entranceway which allows pedestrians to enter or leave a parcel of property, a building, or another location.

**JUNK:** Any motor vehicles, machinery, appliances, products or merchandise with parts missing, or other scrap materials that are damaged, deteriorated, or are in a condition which prevents their use for the purpose for which the product was manufactured.

**JUNKYARD:** An area where waste and used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to: junk, scrap iron, metals, paper, rags, tires, bottles and automobiles.

**KENNEL:** Any lot or premises on which more than five (5) dogs are six (6) months or older are kept, either permanently or temporarily, either for sale, breeding, boarding, training, or grooming; and may offer provisions for minor medical treatment including animal shelters.

**LABORATORY:** A place devoted to experimental, routine or basic study such as testing and analytical operations and in which manufacturing of product or products, except prototypes, is not performed.

**LAKE:** a natural body of inland water larger than a pond.

**LAND DIVISION:** The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or



assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in one (1) or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of section 108 and 109 of the Land Division Act, P.A. 288 of 1967 as amended.

**LANDFILL:** Any disposal area, tract of land, building, unit or appurtenance or combination thereof that is used to collect, store, handle, dispose of, bury, cover over, or otherwise accept or retain refuse as herein defined.

**LIVESTOCK:** Horses, cattle, sheep, goats, hogs, and other domestic animals normally kept or raised on a farm.

**LOADING SPACE, OFF-STREET:** An off-street space of definite size and dimensions in accordance with the requirements of this Ordinance, which is safely and conveniently located on the same lot as the building or buildings being served, for the temporary parking of delivery vehicles while loading and unloading merchandise and materials.

**LOT (OR ZONING LOT OR PARCEL):** For the purposes of enforcing this ordinance, a lot is defined as a piece of land under one ownership and control that is at least sufficient in size to meet the minimum requirements for use, coverage, area, setbacks, and open space as required herein. A lot shall have frontage on a roadway dedicated to the public and certified for maintenance by a public agency, or, if permitted by the regulations set forth herein, on a private road. A lot may consist of:

- A. A single Lot of Record.
- B. A portion of a Lot of Record.
- C. A combination of complete Lots of Record, or portion thereof.
- D. A piece of land described by metes and bounds.

**LOT, ADJACENT:** Lots which adjoin each other or which are separated only by a public or private right-of-way or easement.

**LOT AREA, NET:** The total horizontal area within the lot lines of a lot, exclusive of any abutting public street right-of-way or private road easements, or the area of any lake or wetlands area.

**LOT AREA, GROSS:** The net lot area plus one-half ( $\frac{1}{2}$ ) of the area of any public right-of-way area or private road easement immediately adjacent to or abutting the lot.

**LOT, CONTIGUOUS:** Lots adjoining each other.

**LOT, CORNER:** A lot of which at least two (2) adjacent sides abut their full length upon a street, provided that such two (2) sides intersect at an angle of not more than one hundred thirty-five (135) degrees. Where a lot is on a curve, if the tangents through the extreme point of

the street lines of such lot make an interior angle of not more than one hundred thirty-five (135) degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above. (A tangent is a straight line extended from the outer edges of a curve which intersect to form a corner.)

**LOT COVERAGE:** The part or percent of the lot that is occupied by buildings or structures.

**LOT DEPTH:** The horizontal distance between the front street line and rear lot line, measured along the median between the side lot lines.

**LOT, DOUBLE FRONTAGE:** A lot other than a corner lot having frontage on two (2) more or less parallel streets. In the case of a row of double frontage lots, one (1) street shall be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing buildings in the same block fronting on one or both of the streets, the required minimum front yard setback shall be observed on those streets where buildings presently front.

**LOT, FLAG:** An interior lot whose lot line abuts the rear lot line of an adjacent lot fronting on a public or private road and which can be accessed by a driveway or private road abutting the side lot line of said adjacent lot.

**LOT, INTERIOR:** Any lot other than a corner lot with only one (1) lot line fronting on a street.

**LOT, LAKE:** A lot having any frontage directly upon a lake, natural or man-made. The yard adjacent to the water shall be designated the front yard of the lot, and the opposite side shall be designated the rear yard of the lot.

**LOT LINES:** The lines bounding a lot as follows:

- A. **Front Lot Line:** In the case of an interior lot abutting on one (1) public or private street, the front lot line shall mean the line separating the lot from such street right-of-way or the center line of the road however the parcel is described. In the case of a corner or double frontage lot, the front lot line shall be that line separating said lot from the street which is designated as the front street in the plat and/or in the request for a building permit.
- B. **Rear Lot Line:** Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of irregular, triangular, wedge shaped, or lots that are pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet in length, lying farthest from the front lot line and wholly within the lot.
- C. **Side Lot Line:** Any lot line other than the front or rear lot lines. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**LOT OF RECORD:** A parcel of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the Allegan County Register of Deeds, or a lot or parcel described by metes and bounds, and accuracy of which is attested to by a land surveyor (registered and licensed in the State of Michigan) and likewise so recorded with the Allegan County Register of Deeds.

**LOT WIDTH:** The straight line distance between the side lot lines, measured at the two points where the minimum front yard setback line intersects the side lot lines. No lot, parcel, or tract shall hereafter be divided or created unless the resulting lots, parcels, or tracts have their required minimum lot width adjacent to a state highway, county road, or approved private road. The lot width distance shall be maintained along the side lot lines a minimum of thirty (30) feet beyond the rear building line of the principal structure.

**LOT SPLIT AND CONSOLIDATION:** The dividing or uniting of lots by virtue of changes in the deeds in the office of the Allegan County Register of Deeds and/or the Township Supervisor. The division of lots shall take place in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended.

**MAIN ACCESS DRIVE:** Any private street designed to provide access from a public street or road to a mobile home park, apartment or condominium complex, or other private property development.

**MASSAGE THERAPIST (Certified):** An individual specifically trained and certified in massage therapy and the healing arts by the American Massage Therapy Association or similar organization.

**MASTER PLAN:** The master plan is a document which is prepared under the guidance of the Monterey Township Planning Commission and consists of graphic and written materials which indicate the general location for streets, parks, schools, public buildings and all physical development of the Township.

**MEZZANINE:** An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one third (1/3) of the floor area of the story in which the level or levels are located. A mezzanine shall be deemed a full story if the vertical distance from the next floor below the mezzanine to the next floor above is twenty-four (24) feet or more.

**MOBILE HOME PARK (MANUFACTURED HOUSING DEVELOPMENT):** A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made, together with any building, structure, enclosure, street, equipment, or facility used or intended for use as temporary park, subject to conditions set forth in the Mobile Home Commission Rules and Michigan Public Act 419 of 1976, as amended.

**MOBILE HOME LOT:** An area within a mobile home park which is designated for the exclusive use of the occupants of a specific mobile home.

**MOTEL:** A series of attached, semi detached, or detached rental units which may or may not be independently accessible from the outside parking area consisting of a minimum of a bedroom and bath, occupied for hire, in which a minimum of fifty percent (50%) plus one (1) of the units feature exterior entrances, and which provides customary motel services such as maid service, linen service, telephone and/or desk service, and the use of furniture. No kitchen or cooking facilities are to be provided with the exception of units for use of the manager and/or caretaker.

**MOTOR HOME:** A motorized vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging. This term does not apply to mobile home.

**MUNICIPALITY:** The word "municipality" shall mean the Township of Monterey, Allegan County, Michigan.

**NATURAL FEATURES:** Natural features shall include soils, wetlands, floodplains, water bodies and channels, topography, trees and other types of vegetative cover, and geologic formations.

**NONCONFORMING BUILDING:** A building or portion thereof that was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and which does not now conform to the minimum building height, area, setback, lot coverage or other provision of this Ordinance pertaining to buildings in the zoning district in which it is located.

**NONCONFORMING LOT:** A lot which was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and which does not now conform to the lot size, lot width, or other provisions of this Ordinance pertaining to lots in the zoning district in which it is located.

**NONCONFORMING USE:** A use which was lawfully in existence at the effective date of this Ordinance, or amendment thereto, and which does not now conform to the use regulations of this Ordinance for the zoning district in which it is now located.

**NUISANCE:** Any offensive, annoying, or disturbing practice or object, which prevents the free use of one's property, or which renders its ordinary use or physical occupation uncomfortable. Nuisance commonly involves continuous or recurrent acts which give offense to the senses, violate the laws of decency, obstruct reasonable and comfortable use of property, endanger life and health, or the generation of an excessive or concentrated movement of people or things such as : (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k) electronic or atomic radiation, (l) objectionable effluent, (m) noise of congregation of people, particularly at night, (n) passenger traffic, or (o) invasion of non-abutting street frontage by traffic

**NURSERY, PLANT MATERIAL:** A space, building, and/or structure, or combination thereof, where live trees, shrubs, and other plants used for gardening and landscaping are propagated, stored, and/or offered for sale on the premises. Also see OPEN AIR BUSINESS and ROADSIDE STAND.

**NURSING HOME, CONVALESCENT HOME, or REST HOME:** A home for the care of the aged, infirm, or those suffering from bodily disorders, wherein two or more persons are housed or lodged and furnished with nursing care. Such facilities are licensed in accordance with Michigan Public Acts 139 of 1956, as amended.

**OCCUPANCY, CHANGE OF:** The term "change of occupancy" shall mean a discontinuance of an existing use and the substitution of a use of a different kind or class, or, the expansion of a use.

**OCCUPANCY LOAD:** The number of individuals normally occupying a building or part thereof or for which the exit way facilities have been designed.

**OPEN AIR BUSINESS:** Any business that is conducted primarily out-of-doors. Unless otherwise specified herein, open air business shall include:

- A. Retail sales of garden supplies and equipment, including but not limited to: trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture.
- B. Roadside stands for the sale of agricultural products, including fruits, vegetables, and Christmas trees.
- C. Various outdoor recreation uses, including but not limited to: tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, and amusement parks.
- D. Outdoor display and sale of model garages, swimming pools, playground equipment, and similar uses.

**OPEN FRONT STORE:** A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter said structure.

**OPEN SPACE:** Lands open from ground to sky and devoted to outdoor recreation space, greenery, and resource protection. Developed open spaces may include, but is not limited to, playground fixtures, shelter, and tennis courts.

**OPEN SPACE, COMMON:** An unoccupied area within a planned unit development which is reserved primarily for the leisure and recreational use of all the planned unit development residents, owners, and occupants, and generally owned and maintained in common by them, often through a home owners or property owners association.

**OPEN SPACE, PUBLIC:** Any primarily undeveloped land intended for passive recreational pursuits, within the jurisdiction and control of a governmental agency.

**OPEN STORAGE:** Any outdoor storage of building materials, sand, gravel, stone, lumber, equipment, or other supplies.

**OUTLOT:** A parcel of land which must be designated on a recorded plat as an outlot before it may be legally considered as such.

**PARCEL:** See LOT.

**PARK, PRIVATE:** Land held in private ownership used for active recreation and/or open space. The land, at the discretion of the owner(s), may or may not be available for use by the general public.

**PARK, PUBLIC:** Publicly owned land used for active recreation and/or open space and available for use by the general public. Use of the land may be subject to specified conditions.

**PARKING LOT, OFF-STREET:** An area on private property which provides vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three (3) vehicles.

**PARKING SPACE:** An area of definite length and width as designated in this Ordinance for parking an automobile or other vehicle, which is fully accessible for such purposes, and is exclusive of access drives and aisles thereto.

**PARTY WALL:** A wall starting from the foundation and extending continuously through all stories to or above the roof that separates one building from another and that is in joint use by each building.

**PERSON:** An individual, trustee, executor, fiduciary, corporation, firm, partnership, association, organization, or other legal entity acting as a unit.

**PERFORMANCE STANDARD:** A criterion to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, glare, heat, or other effects.

**PET:** A domesticated dog, cat, bird, gerbil, hamster, guinea pig, turtle, fish, rabbit, or other similar animal that is kept for pleasure or companionship.

**PLANNED UNIT DEVELOPMENT:** A planned unit development may include such concepts as cluster development, planned development, community unit development, planned residential development, and other terminology denoting special zoning requirements and review procedures. These requirements and procedures are intended to provide design and regulatory flexibility, so as to accomplish the objectives of this Ordinance using innovative and effective planning approaches.

**PLAT:** A map of a subdivision of land.

**POND:** a body of water, either natural or manmade, less than ten (10) acres in area located on an agricultural or residential parcel of land.

**POULTRY:** Any of various breeds of birds long ago domesticated by man so as to live and

breed in a tame, docile, tractable condition useful to man for meat and eggs, including chickens, ducks, geese, guinea fowl and turkeys not including game fowl.

**PORCH:** An exterior appendage to a building which has a separate roof or a roof integral with the building which forms a covered approach to a doorway or vestibule.

**Porch, Enclosed:** A porch separated from the outside by an all-weather partition or a partition which renders the area inside the partition habitable.

**Porch, Open:** A porch not separated from the outside by either an all-weather partition or a partition rendering the area inside the partition habitable.

**PRACTICAL DIFFICULTY:** factors to be considered by the Township Zoning Board of Appeals when considering the granting of a variance. Elements of practical difficulty include:

1. Setback, frontage, height, bulk and density requirements unreasonably prevent the use of the property for a permitted use;
2. Unique natural features of the property (topography, wetlands, proximity of trees) prevent the use of the property for a permitted use.
3. The details of the variance are not self-created.

**PROPERTY LINE:** The line separating a piece of property from the street right-of-way and the lines separating a parcel of property from the parcels next to it. See also LOT LINE.

**PUBLIC NOTICE:** A notice of the time, place, and purpose of a public hearing, which notice shall be posted in a manner and within a time frame as prescribed in this Ordinance or in applicable State law.

**PUBLIC UTILITY:** Any persons, firm, corporation, municipal department, or board, duly authorized to furnish to the public under government regulations any of the following: electricity, gas, steam, communications services, cable television services, transportation services, water, sewer service, or sewage treatment.

**RECREATION ESTABLISHMENT, INDOOR:** A privately owned facility designed and equipped for the conduct of sports, amusement, or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as gymnasiums and fitness centers, bowling alleys, indoor soccer facilities, racquetball and tennis clubs, ice and roller skating rinks, curling centers, and firearms ranges.

**RECREATION ESTABLISHMENT, OUTDOOR:** A privately owned facility designed and equipped for the conduct of sports, amusements, or leisure time activities and other customary recreational activities outdoors (outside of an enclosed building) and operated as a business and open for use by the public for a fee such as tennis clubs, archery ranges, golf courses, miniature golf courses, golf driving ranges, firearm ranges, water slides, batting cages and machines, skateboarding parks, and children's amusement parks.



**RECREATIONAL LAND:** Any public or privately owned lot or land that is utilized for recreation activities such as, but not limited to, camping, swimming, picnicking, hiking, nature trails, boating, and fishing.

**RECREATIONAL VEHICLE:** A boat, snowmobile, off-road vehicle, camper travel trailer, motor home, pick-up camper, or trailer which is designed for private recreational or travel use and which is further defined as:

- A. **Travel Coach:** A portable vehicle on a chassis which is designed to be used as a temporary dwelling during travel, recreational and vacation uses and which may be identified as a travel trailer, coach, camper, tent camper, pop-up camper, camping trailer, park model, pull-behind, or fifth wheel camper by the manufacturer. Trailer coaches generally contain sanitary, water and electrical facilities.
- B. **Pickup Camper:** A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.
- C. **Motor Home:** (a self-propelled motorized recreational vehicle intended, designed, used, or constructed, and duly licensable for travel and/or recreational usage, and for temporary human habitation, sleeping, and/or cooking and eating for one (1) or more persons, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor home generally contains sanitary, water, and electrical facilities.
- D. **Folding Tent Trailer:** A folding structure, mounted on wheels and designed for travel and vacation use.
- E. **Boats and Boat Trailers:** Boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
- F. **Other Recreational Equipment:** Snowmobiles, all-terrain vehicles, special terrain vehicles, utility trailers, plus normal equipment to transport them on the highway.

**REFUSE:** The miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any similar or related combinations thereof.

**RESTAURANT:** A restaurant is any establishment whose principal business is the sale of food and beverages to the customer in a ready to consume state, and whose method of operation is characteristic of a carry out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below:

- A. **Restaurant, Carry Out:** A carry out restaurant is a restaurant whose method of



operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready to consume state for consumption primarily off the premises.

- B. **Restaurant, Drive In:** A drive-in restaurant is a restaurant whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building.
- C. **Restaurant, Drive Through:** A drive through restaurant is a restaurant whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive through window, for consumption off the premises.
- D. **Restaurant, Fast Food:** A fast-food restaurant is a restaurant whose method of operation involves minimum waiting for delivery of ready-to- consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.
- E. **Restaurant, Standard:** A standard restaurant is a restaurant whose method of operation involves either:
  - 1. The delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building, or
  - 2. The prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.

**RIGHT-OF-WAY:** A right-of-way as defined herein dedicated to or owned by a public body and available for use by the general public. In the case of public streets, the right-of-way normally includes curbs, lawn strips, and lighting and drainage facilities.

**ROADSIDE STAND:** A temporary or existing permanent building operated for the purpose of selling products grown or produced on the premises together with incidental related products, and its use shall not make it into a commercial district, land which would otherwise be an agricultural or residential district, nor shall its use be deemed a commercial activity for purposes of this Ordinance.

**ROOM:** For the purpose of determining lot area requirements and density in a multiple family district, a room is a living room, dining room or bedroom, equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing 1, 2 or 3 bedroom units and including a "den", "library", or other extra room shall count such extra room as a bedroom for the purpose of computing density.

**SATELLITE ANTENNA:** An accessory structure which at its widest dimension is in excess of 36 inches, capable of receiving signals from orbiting satellites and other extraterrestrial sources, together with other equipment related to such purposes.

**SAWMILL:** a facility for the processing of timber logs into forestry products such as milled lumber, treated posts, firewood and wood by-products such as slab wood, bark chips and sawdust and which may include planing and sizing facilities, kilns, storage yards and accessory maintenance facilities incidental to sawmill operations.

**SCHOOL, HOME:** A school which enables a child to be educated at the child's home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar. The home school family may choose whether to operate as a nonpublic school. If a home school family chooses to operate as a nonpublic school, it must register with the Michigan Department of Education.

**SCHOOL, NONPUBLIC:** A nonpublic school is any school other than a public school giving instruction to children below the age of sixteen (16) years and not under the exclusive supervision and control of the officials having charge of the public schools of the state. Nonpublic schools include private, denominational, and parochial schools.

**SCHOOL, PUBLIC:** A public elementary or secondary educational entity or agency that has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, public state university, or by the department or state board.

**SCREEN, OBSCURING:** A visual barrier between adjacent area or uses consisting of structures, such as a wall or fence, or living plant material.

**SETBACK:** The distance between a front, side or rear lot line and the nearest supporting member of a structure on the lot. The **MINIMUM REQUIRED SETBACK** is the minimum distance between a front, side or rear lot line and the nearest supporting member of a structure in order to conform to the required yard setback provisions of this Ordinance (see definition of **YARD**).

**SIDEWALK:** Pedestrian or non motorized vehicular circulation routes built according to the standards of the Township or other agency with right-of-way jurisdiction, as applicable.

**SIGN:** Any visual or graphic device designed through use of words, numbers, characters, or symbols to inform or attract attention and which is designed to be visible from outside any building or structure in which, upon which, or attached to which it may be located.

**SITE PLAN:** A plan showing all salient features of a proposed development, as required in Section 10.24, so that it may be evaluated to determine whether it meets the provisions of this Ordinance

**SPECIAL EVENT:** An occurrence or noteworthy happening of seasonal, civic, or church importance, which is organized and sponsored by a nonprofit Monterey Township community group, organization, club or society, and which offers a distinctive service to the community, such as public entertainment, community education, civic celebration, or cultural or community enrichment. Special events typically run for a short period of time (less than two weeks) and are unlike the customary or usual activities generally associated with the property where the special event is to be located. All such special events shall be open to the public.

**STABLE, PRIVATE:** A private stable is an enclosed building intended for the keeping of horses or other large domestic animals, for the noncommercial use of the residents of the principal residential use on the site.

**STABLE, PUBLIC:** A public stable is an enclosed building intended for the keeping of horses or other domestic animals, in which any such animals are kept for remuneration, hire, or sale.

**STATE LICENSED RESIDENTIAL FACILITY:** Any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Public Act 287 of 1972, Public Act 11 of 1973, or Public Act 218 of 1979. These acts provide for the following types of residential structures:

- A. **Adult Foster Care Facility:** A governmental or nongovernmental establishment having as its principle function the receiving of adults, 18 years of age or older, for foster care in accordance with Public Act 218 of 1974, as amended, and the Adult Foster Care Administrative Rules as administered by the Michigan Department of Consumer & Industry Services. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released or assigned to a correctional facility. The following four (4) types of Adult Foster Care Homes are provided for by these rules:
  - 1. **Adult Foster Care Family Home:** A private residence with the approved capacity to receive not more than 6 adults who shall be provided foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.
  - 2. **Adult Foster Care Small Group Home:** An adult foster care facility with the approved capacity of not more than 12 adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license only if seven (7) or more residents will live in the home.
  - 3. **Adult Foster Care Large Group Home:** An adult foster care facility with

the approved capacity to receive at least 13 but not more than twenty (20) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.

4. **Adult Foster Care Congregate Facility:** An adult foster care facility with the approved capacity to receive more than twenty (20) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.
  
- B. **Foster Family Home:** A private residence that houses four (4) or fewer foster children, up to age 19, under constant child care and supervision. Under Public Act 116 of 1973, a Foster Family Home does not require local zoning approval before being licensed by the Department of Consumer and Industry Services.
  
- C. **Foster Family Group Home:** A private residence that houses five (5) or six (6) foster children, up to age 19, under constant care and supervision. Under Public Act 116 of 1973, a Foster Family Group Home requires local zoning approval before being licensed by the Department of Consumer and Industry Services.

**STATE EQUALIZED VALUATION:** The value shown on the Township assessment roll as equalized through the process of State and County equalization.

**STORAGE:** The depositing of material, products for sale or use, or other items for a period greater than 24 hours. This definition shall include items for household use, but shall not include vehicles, boats, mobile homes and other items.

**STORY:** That portion of a building included between the upper surface of any floor, and the upper surface of any floor above; or any portion of a building between the topmost floor and the roof having a usable floor area to at least 50 percent of the usable floor area of the floor immediately below it.

A mezzanine shall be deemed a full story when it covers more than one third (1/3) of the area of the story underneath said mezzanine, or, if the vertical distance from the floor next below the mezzanine to the floor next above it is twenty-four (24) feet or more.

A basement shall be deemed a full story when the vertical distance from the average grade to the floor below is less than the vertical distance from the average grade to the ceiling.

**STORY, HALF:** The uppermost story lying under a pitched roof, the usable floor area of which does not exceed two thirds of the floor area of the uppermost full story. The usable floor area of a half story shall be at least 160 square feet with a minimum clear height of seven (7) feet, six (6) inches.

**STREET:** A public or private street, road or thoroughfare intended primarily to provide vehicular circulation and access to abutting property. Various types of streets are defined as follows:

- A. **Collector Street:** A street whose principal function is to carry traffic between local or minor streets and major streets but may also provide direct access to abutting properties.
- B. **Cul-De-Sac:** A street that terminates in a vehicular turnaround.
- C. **Local or Minor Street:** A street whose sole function is to provide access to abutting properties.
- D. **Major Street:** A street that carries high volumes of traffic and serves as a main avenue through or around the Township. Major streets may also be referred to as arterial streets or major thoroughfares. For the purpose of this Ordinance, major streets shall include those streets designated as "county primary", "county local" or "major street."
- E. **Private Street or Road:** A street or road under private ownership which has been constructed for the purposes of providing access to adjoining property, and which is normally open to the public so that persons other than the occupants of adjoining property may travel thereon, but which has not been accepted for maintenance by the Township, County, State or Federal Government.
- F. **Public Street or Road:** A street or road, the right-of-way and improvements of which have been accepted for maintenance by the County, State or Federal Government.

**STREET LINE:** A dividing line between the street and a lot, also known as the right-of-way line.

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location. Structures include, but are not limited to, principal and accessory buildings, towers, decks, fences, privacy screens, walls, antennae, swimming pools, and signs.

**STRUCTURAL ALTERATION:** Any change in the supporting members of a building or structure, such as bearing walls, partitions, columns, beams, or girders, or any change in the width or number of exits, or any substantial change in the roof.

**STRUCTURE, OUTDOOR ADVERTISING:** Any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed.

**SUBDIVISION PLAT:** The division of a tract of land into two or more lots, building sites, or other divisions for the purpose of sale or building development, in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended.

**SWIMMING POOL:** Shall mean any permanent, non portable structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing. A swimming pool shall be considered an accessory structure for purposes of computing lot coverage.

**TELECOMMUNICATIONS TOWERS AND FACILITIES OR TOWER:** All structures and accessory facilities, including alternative tower structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities, short wave receiving facilities, radio and television broadcast reception facilities, satellite dishes, federally licensed amateur (HAM) radio facilities, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

**TEMPORARY USE OR BUILDING:** See BUILDING, TEMPORARY or USE, TEMPORARY.

**THEATER:** An enclosed building used for presenting performances or motion pictures which are observed by paying patrons from seats situated within the building.

**TOXIC OR HAZARDOUS WASTE:** Waste or a combination of waste and other discarded material including solid, liquid, semisolid, or contained gaseous material which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to the following if improperly treated, stored, transported, disposed of, or otherwise managed:

- A. an increase in mortality, or
- B. an increase in serious irreversible illness, or
- C. serious incapacitating, but reversible illness, or
- D. a potential hazard to human health or the environment.

**TRAILER:** See RECREATIONAL VEHICLE; DWELLING, MOBILE HOME; and UTILITY TRAILER.

**TRANSITION:** The word or term "transition" or "transitional" shall mean a zoning district, a landscaped area, lot arrangement, wall or other means which may serve as a buffer between various land use types, particularly those uses which are incompatible.

**TRUCK STORAGE:** An area used for the temporary storage of private trucks or trucks for hire.

**TRUCK TERMINAL:** a structure to which goods, except raw or unprocessed agricultural products, natural minerals, or other resources, are delivered for immediate distribution to other parts of the Township or to be amalgamated for delivery in larger units to other points in the metropolitan area; or for distribution or amalgamation involving transfer to other modes of

transportation.

**USE:** The purpose for which land, lots, or buildings thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

**USE, ACCESSORY:** See ACCESSORY USE, BUILDING, OR STRUCTURE.

**USE, SPECIAL:** A use which is subject to special approval by the Planning Commission. A special use may be granted only where there is a specific provision in this ordinance.

**USE, PERMITTED:** A permitted use is a use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such district.

**USE, PRINCIPAL:** The principal use is the main use of land and buildings and the main purpose for which land and buildings exist.

**USE, TEMPORARY:** Shall mean a use permitted to exist during a specified period of time under conditions and procedures as provided in this Ordinance.

**UTILITY ROOM:** A utility room is a room in a dwelling, the use of which is primarily for storage, for housing a heating unit, or for laundry purposes.

**UTILITY TRAILER:** A small trailer that is designed to be pulled by an automobile, van, or pick-up truck.

**VARIANCE:** A modification of the literal provisions of the Zoning Ordinance in accordance with the provisions herein in cases where strict enforcement would cause undue hardship as a result of special circumstances affecting an individual property that do not generally affect other properties in the same zoning district.

The crucial points of variance are: (a) undue hardship, (b) unique circumstances, and (c) applying to property. A variance is not justified unless all three elements are present in the case.

A variance to permit a use not otherwise permitted within a zoning district (i.e., a "use variance") shall not be permitted. Hardships based solely on economic considerations are not grounds for a variance. A use variance is not a special exception use.

**VEHICLE, COMMERCIAL:** Any one of a class of vehicles and similar vehicles whose characteristics are described below which have or require commercial license plates and have a gross vehicle weight in excess of six-thousand-five-hundred (6,500) pounds. Any commercially licensed vehicle which does not possess the characteristics of a commercial vehicle, as defined below, shall not be subject to the restrictions applying to commercial vehicles:

**Semi-trailer:** A trailer unit which is customarily attached to and propelled by a truck tractor vehicle, but which can be detached to stand alone. Semi-trailer shall include



trailers with flat beds, stake beds, roll-off beds, tanker bodies, dump bodies, and full or partial box-type enclosures.

**Truck Tractor:** A commercial vehicle which is capable of attaching to and propelling semi-trailers, mobile homes, modular homes, boat trailers and similar units, and which is not customarily operated without an attached trailer.

**Other Commercial Vehicles:** Any truck or motor vehicle with a cab and chassis with a stake rack, dump body, wrecker body, tanker body, or any other body, the mounted height of which exceeds the height of the cab roof more than eight (8) inches. This shall include any vehicle which has a commercial license plate and which is designed to accommodate a body length in excess of nine (9) feet. Commercial vehicles do not include motor homes or recreational vehicles, but do include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, and similar vehicles

**WALL, OBSCURING:** Shall mean a masonry structure of definite height and location to serve as an opaque screen in carrying out the requirements of this Ordinance.

**WALL, PARAPET:** An extension of a building wall above the roof which may serve to screen roof mounted mechanical equipment.

**WALL, RETAINING:** A permanent solid barrier of brick, stone, or other opaque material intended to enclose an area. For the purpose of this Ordinance, all supporting members, posts, stringers, braces, pilasters, or other construction features of a retaining wall shall be located and placed on the inside of the wall away from public view. Moreover, all retaining walls shall be constructed and/or painted, tinted, or colored in one color only for their exterior surface, and no sign or advertising shall be placed, affixed, painted, or designed thereon.

**WAREHOUSE:** A building used for short and/or long term storage in connection with production and marketing or in connection with manufacturing, freight handling, and retailing.

**WAREHOUSE, MINIATURE OR SELF-STORAGE:** A building or group of buildings in a controlled access and /or fenced compound that contains varying sizes of individualized, compartmentalized, and controlled-access stalls or lockers for the storage of customers goods or wares.

**WASTE RECEPTACLE STATION:** Any exterior space which is not a principal use for containers, structures, or other receptacles intended for temporary storage of solid waste materials.

**WETLAND:** Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances, does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh.

**WETLAND, REGULATED:** Certain wetlands regulated by the Michigan Department of Environmental Quality under the provisions of Act 451, as amended, and generally defined as



land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances, does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

- A. Contiguous to an inland lake or pond, or a river, or a stream,
- B. Not contiguous to an inland lake, pond, river, or stream, and more than five (5) acres in size, or
- C. Not contiguous to an inland lake, pond, river, or stream and five (5) acres or less in size if the Michigan Department of Natural Resources determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the property owner.

**WHOLESALE SALES:** On-premise sales of goods primarily to customers engaged in the business of reselling the goods.

**WIND ENERGY CONVERSION SYSTEM:** A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes wind turbine blades, the tower, and the related electrical equipment. This does not include wiring to connect the wind energy conversion system to the utility grid. The system may be one of the following:

- A. A small turbine or on-site system intended to primarily serve the needs of the customer with a single tower that may or not be connected to the utility grid; or
- B. A large turbine or utility grid system designed to generate electricity from one or more towers (within an array) and is intended to serve development within the community or throughout a region.

For other definitions relating to a wind energy conversion system, see Section 10.38 of this Ordinance.

**WIRELESS COMMUNICATION FACILITIES:** All structural facilities, attached or accessory, related to the radio frequency spectrum for the purpose of transmitting or receiving radio signals, including but not limited to radio and television towers, cellular telephone and paging towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment buildings and commercial mobile radio service facilities. Not included are facilities for citizen band radio, short wave radio, ham and amateur radio, television reception antenna, satellite dishes, and government facilities which are subject to state and federal law. Wireless communication facilities shall be specifically excluded from the definition of “public facility” or “essential service.”

**WIRELESS COMMUNICATION SUPPORT STRUCTURES (TOWERS):** Any structure used to support attached wireless communication facilities, or other antenna or facilities, including support lines, cables, wires, braces and masts intended primarily for the purpose of

mounting an attached wireless communication facility or similar apparatus above grade, including any ground or roof-mounted pole, monopole, lattice towers, light poles, wood poles, and guyed towers or other similar structures which support wireless communication facilities.

**YARD:** An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise permitted in this Ordinance. The Minimum Required Setback is the minimum depth of a front, rear or side yard necessary to conform to the required yard setback provisions of this ordinance.

- A. **Yard, Front:** A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the principal building. Unless otherwise specified, on corner lots there shall be maintained a front yard along each street frontage.
- B. **Yard, Rear:** A yard extending the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and the nearest point on the principal building. On corner lots, the rear yard may be opposite either street frontage, but there shall only be one rear yard.
- C. **Yard, Side:** A yard between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point on the principal building.

**ZONING ADMINSTRATOR:** the officer designated by the Township Board who is responsible for enforcing and administering the provisions of the Zoning Ordinance.

**ZONING BOARD OF APPEALS:** the Monterey Township Zoning Board of Appeals created pursuant to Michigan Public Act 110 of 2006, as amended.

## **CHAPTER 4-MAPPED DISTRICTS**

### **SECTION 4.01 ZONING DISTRICTS**

The Township of Monterey is hereby divided into the following zoning districts:

- A. AG-1      Agricultural District
- B. R-1        Rural Estate District
- C. R-2        Low Density Residential District
- D. R-3        Medium Density Residential District
- E. R-4        Mobile Home Park District
- F. C-1        Neighborhood Business District
- G. I-1        Light Industrial District

### **SECTION 4.02 ZONING MAP**

The locations and boundaries of the zoning districts are hereby established as shown on a map, as the same may be amended from time to time entitled “The Zoning Map of Monterey Township, Allegan County, Michigan,” which accompanies and is hereby made a part of this ordinance. Where uncertainty exists as to the boundaries of zoning districts as shown on the zoning map, the following rules of construction and interpretation shall apply.

- A. Boundaries indicated as approximately following the centerlines of streets, highways, of alleys shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following township boundaries shall be construed as following township boundaries.
- D. Boundaries indicated as approximately following shorelines or lake or stream beds, as in the event of change in the location of shorelines of lake or stream beds, shall be construed as moving with shoreline and lake of stream bed.
- E. Lines parallel to streets without indication of the depth from the street line shall be construed as having a depth of two hundred (200) feet from the front lot line.
- F. Boundaries indicated as approximately following property lines, section lines of other lines of government survey shall be construed as following such property lines, section lines or other lines of government survey as they exist as of the effective date of this ordinance or applicable amendment thereto.

**SECTION 4.03 AREAS NOT INCLUDED WITHIN A DISTRICT**

In every case where land has not been included within a district on the zoning map, such land shall be in the AG zoning District.

## **CHAPTER 5-AG-1 AGRICULTURAL DISTRICT**

### **SECTION 5.01 DESCRIPTION AND PURPOSE**

This zoning district is intended for large tracts of land used for farming, animal husbandry, dairying, horticultural, or other agricultural activities.

### **SECTION 5.02 USE REGULATIONS**

Land buildings and structures in this zoning district may be used for the following purposes only:

- A. Farms for both general and specialized farming, together with farm dwellings and buildings and other installations necessary to such farms including temporary housing for migratory workers provided such housing and its sanitary facilities are in conformance with all requirements of the Allegan County Health Department and/or any other federal, state and/or local regulating agency having jurisdiction.
- B. Roadside stands.
- C. Green houses, nurseries, orchards, vineyards, apiaries, chicken hatcheries, blueberry and poultry farms.
- D. Publicly owned athletic grounds, parks and cemeteries.
- E. Riding stables, where horses are boards and/or rented.
- F. Real estate signs, identifying sign, name place.
- G. Family day care centers and adult foster homes
- H. On Site Wind Energy Conversion Systems of 100 foot or less in height

### **SECTION 5.03 USES SUBJECT TO SPECIAL USE PERMIT**

- A. Single family dwellings when authorized by the Monterey Township Planning Board as a special use. In considering such authorization the Monterey Township Planning Commission shall consider the following standards:
  - 1. The location of said dwelling and lot in respect to whether the land is presently being utilized or is capable of being used for the production of agricultural crops.
  - 2. The location of said dwelling and lot in respect to whether it would interfere with or substantially hinder any existing or potential future farming operation of activity within the immediate area.
  - 3. The present and future ability of the township, county and school district to provide adequate vehicular access, schools, public safety and other necessary public serviced to the proposed dwellings.

4. One single family residential building site may be created from a parcel in this district. The new building site shall not be less than (1) acre and have one hundred and fifty (150) feet of road frontage and shall have Allegan County approval for sanitary and water facilities.
- B. The township building inspector may issue a special temporary use permit for a mobile home for a period of up to one year in the event that permanent residence is rendered uninhabitable by fire or other natural disaster. Any extensions of the temporary use permit must be authorized by the Township Zoning Board of Appeals as a variance.
- C. Home occupations when authorized as a special use by the Township Planning Commission. In considering such authorization, the Township Planning Commission shall consider the following standards:
1. The nature of the home occupation.
  2. The effect of the home occupation of the surrounding neighborhood.
  3. The environmental effects of the home occupation.
  4. The nature of surrounding neighborhood.
  5. Potential traffic congestion as a result of the home occupation.
  6. Provision for parking for traffic or clientele which may result from the operation of the home occupation.
- D. Removal and processing of soil.
1. **DEFINITION:** Soil shall be defined as topsoil, subsoil, clay, sand, gravel, rock, stone and aggregate, earth or any other similar material proposed to be moved, removed excavated, mined or dumped on land.
  2. **GENERAL RESTRICTIONS**

All soil which is moved, removed, excavated, mined or dumped, shall be moved, removed, excavated, mined or dumped in accordance with the following restrictions and regulations:

    - a. All soil moved, removed, excavated, mined or dumped shall be stabilized as soon as possible in such a manner as to prevent soil and/or dust from being blown, washed or otherwise transferred to adjacent lands and/or public or private streets.
    - b. Trees and vegetation shall not be stripped from land preparatory to moving, removing, excavating, mining or dumping soil so as to prematurely or unnecessarily expose soil to wind or water erosion.

### 3. SPECIFIC RESTRICTIONS

Any person who owns, leases, or rents, stockpiles, pits, or mines of soil in Monterey Township shall comply with the following provisions or restrictions:

- a. All vehicles transporting soil from or to a project over public streets in the township shall follow the established truck route or shall travel only over such route as may be directed by the Township Board to be least dangerous to public safety, cause the least interference with general traffic, and cause the least damage to the public street.
- b. Adequate safeguards shall be provided during the project to prevent soil and/or dust from being deposited on adjoining lands and public or private streets, from waste erosion, or blowing soil and or dust.
- c. The restored elevation of the land shall be compatible with the surrounding area and the land shall be left in a condition suitable for subsequent development for uses permitted in the zoning district in which the land is zoned by the zoning ordinance.
- d. If the Township Board determines by resolution that any project will present a dangerous condition if left open and unfenced, then such project shall be enclosed by chain link, wire mesh or snow fence completely surrounding the portion of the land where the project extends; said fence to be not less than four (4) feet in height and to be complete with gates, such gates to be kept locked when operations are not being carried on. Barbed wire shall not be used as part of any such fence.
- e. Any soil that may be deposited on any public street or public place from any vehicle transporting materials from the project site shall be immediately removed without damage to the public street or public place at the expense of the permit holder.
- f. No part of soil processing operation (screening, washing, crushing, etc.) shall take place closer than two hundred (200) feet to the nearest adjacent residence or closer than one hundred (100) feet to any street or adjacent property line.
- g. At the time the excavation and/or mining is completed, the slopes of the banks of the project excavation shall be three (3) feet of run to one (1) foot of rise. However, the Township Board may, by resolution prescribe more lenient or stricter requirements in order to give sub-lateral support to surrounding property.
- h. No cut or excavation shall be made nearer than forty (40) feet, measured at the top of the finished grade, for any adjacent property or



street right-of-way; provided, however, that the Township Board may by resolution prescribe stricter requirements.

- i. The land utilized for each phase of the project shall be so landscaped or stabilized upon completion of each phase so that all soil erosion by wind and water shall be eliminated.
- j. No soil shall be mined, excavated, or removed in such a manner as to cause water to collect or to result in a place of danger, or a menace to the public health. The land shall at all times be graded so as not to interfere with surface water drainage.
- k. If there is a stripping operation, wherever top soil exists, suitable for growing turf or for other land uses at the time the operation began, sufficient topsoil and/or overburden shall be stockpiled so that the entire site, when stripping operations are completed can be restored. The replacement of topsoil shall be made immediately following the termination of the stripping operations provided, however, that if such stripping operations continue over a period of time greater than thirty (30) days, the operator shall replace the stored topsoil over the stripped area as the work progresses.
- l. The Township Board may require additional performance standards or stricter performance standards than are provided herein where, because of peculiar conditions, such standards are necessary to achieve the purposes of these regulations. In addition, the Township Board may also attach and impose conditions, restrictions, or requirements as it shall determine are necessary to achieve the purposes of these regulation. Violations of any performance standard, condition, restriction, or requirements imposed by the Township Board shall be deemed a violation of these regulations.
- m. Any roads used for the purpose of ingress and egress to said project site which are located within three hundred (300) feet of an occupied residential or commercial or industrial establishment shall be kept dust free by hard topping with concrete, bituminous substance, chemical treatment, or such other means as may be proposed by the applicant and approved by the Township Board by resolution. This provision shall apply only in the event that the person removing said soil transports more than 500 cubic yards of soil per day with a maximum of 1000 cubic yards per individual job, and said topping may only be required from the mine, stockpile, or pit to the nearest paved road.
- n. Restrictions C,D, & G, shall not apply to operations in existence as of date of adoption of amendment unless that operation has ceased for a period of 18 consecutive months. Any resumption of operation after 18 months will require adherence to all restrictions.

**4. DEPOSIT OF BOND AND CERTIFICATE OF INSURANCE**

The Township Board may require that the applicant file or deposit with the township treasurer, performance securities in the form of a performance bond written by an insurance company licensed to do business in the State of Michigan, insuring to the benefit of the township and satisfactory to the township attorney, cash, a certified or cashier's check payable to the township, or any irrevocable bank letter of credit, in a form satisfactory to the township attorney.

The Township Board, in establishing the amount of the bond, may consider the scale of the operations, the prevailing cost to rehabilitate the property upon default of the operator, court costs and other reasonable expenses to guarantee that the applicant will fully and faithfully perform all applicable performance standards, conditions, restrictions and requirements of these regulations and any special performance security if the Township Board shall, by resolution, determine that any such standard, condition, restriction, or requirement has been violated.

The Township Board may also require that the applicant deposit a certificate of any indemnity company licensed to do business in the State of Michigan, in an amount reasonably relevant to the proposed work to be done as specified by the Township Board, insuring the township against any loss or damage to persons or property arising directly or indirectly from the operations of the applicant, or any person acting on his behalf.

- E. Kennels, subject to Section 6.03B.
- F. Tourist home or bed and breakfast with no more than (6) bedrooms.
- G. Farm implement sales and repairs.
- H. Feed and fertilizer sales.
- I. Churches, subject to Section 7.03C.
- J. Other uses the Planning Commission considers compatible with the intent of this District.
- K. Temporary housing in accordance with Section 10.26
- L. Septage waste systems meeting the following standards:
  - 1. Compliance of the Site Plan with the MDEQ Septage Waste Storage Facility Management Practices of April 5, 2006, as updated, and the MDEQ Septage Waste Receiving Facility Rules, when promulgated.
  - 2. The effect of the facility on the surrounding neighborhood, i.e. truck traffic.

3. The effect of the facility on the environment. Also the measures taken to prevent surface water and/or ground water contamination, and the methods in place to monitor those measures.
4. The need for such facilities in Monterey Township.
5. Inspection analyses/reports regarding monitor wells will be provided to the Monterey Township Board.

M. Family day care and adult foster care facilities

N. On site (Greater than 100 foot in height) or Utility Grid Wind Energy Conversion Systems.

#### **SECTION 5.04 HEIGHT REGULATIONS**

No residential building or structure shall exceed thirty-five (35) feet in height. All other buildings and structures shall not exceed their usual and customary heights.

#### **SECTION 5.05 AREA REGULATIONS**

No principle building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard, lot area, and building coverage requirements.

- A. **Front Yard** – There shall be a front yard of not less than fifty (50) feet.
- B. **Side Yard** – For residential buildings and structures, there shall be total side yards of not less than fifty (50) feet; provided, however, that no side yard shall be less than twenty (20).
- C. **Rear Yard** – There shall be a rear yard of not less than fifty (50) feet.
- D. **Lot Area** – The minimum building site or parcel area and width for all uses in this district, unless specified elsewhere, shall be twenty (20) acres and three hundred thirty (330) feet, respectively.

#### **SECTION 5.06 MINIMUM FLOOR AREA**

Each dwelling unit, unless specified elsewhere shall have a minimum of nine hundred (900) square feet of usable floor area.

## **CHAPTER 6-R-1 RURAL ESTATE DISTRICT**

### **SECTION 6.01 DESCRIPTION AND PURPOSE**

This zoning district is intended for large rural residential estates and farming.

### **SECTION 6.02 USE REGULATIONS**

Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Farms for both general and specialized farming, together with farm dwellings and buildings and other installations necessary to such farms. Temporary housing for migratory workers is prohibited.
- B. Greenhouses, nurseries, orchards, vineyards or blueberry farms.
- C. Single family dwellings.
- D. Roadside stands.
- E. Publicly owned athletic grounds, parks and cemeteries.
- F. The township building inspector may issue a special temporary use permit for a mobile home for a period of up to one year in the event that a permanent residence is rendered uninhabitable by fire or other natural disaster. Any extensions of the temporary use permit must be authorized by the Township Zoning Board of Appeals as a variance.
- G. Real estate signs, identifying sign, name plate.
- H. Family day care and adult foster care facilities.
- I. On-site Wind Energy Conversion Systems of 100 foot or less in height.

### **SECTION 6.03 USES SUBJECT TO SPECIAL USE PERMIT**

- A. Home occupations, pursuant to Section 5.03C.
- B. Kennels, where authorized as a special use by the Township Planning Commission. In considering such authorization, the Township Planning Commission shall consider the following stands: 1) the size, nature and character of the kennel; 2) the proximity of the kennel to adjoining properties; 3) the effect of the kennel on adjoining and surrounding neighborhood; 4) potential traffic congestion on account of the kennel; and 5) the nature and character of the buildings and structures to utilized for the kennel operation.
- C. Removal and processing of top soil, in accordance with Section 5.03D.
- D. Tourist home or bed and breakfast with no more than six (6) bedrooms.
- E. Temporary housing, in accordance with Section 10.26

- F. Churches, subject to Section 7.03C.
- G. Other uses the Planning Commission considers compatible with the intent of this District and with the surrounding community
- H. Septage waste systems meeting the following standards:
  - a. Compliance of the Site Plan with the MDEQ Septage Waste Storage Facility Management Practices of April 5, 2006, as updated and the MDEQ Septage Waste Receiving Facility Rules, when promulgated.
  - b. The effect of the facility on the surrounding neighborhood, i.e. truck traffic.
  - c. The effect of the facility on the environment. Also the measures taken to prevent surface water and/or ground water contamination, and the methods in place to monitor those measures.
  - d. The need for such facilities in Monterey Township.
  - e. Inspection analyses/reports regarding monitor wells will be provided to the Monterey Township Board.
- I. Family day care and adult foster care facilities
- J. On-site Wind Energy Conversion Systems greater than 100 foot in height.

#### **SECTION 6.04 HEIGHT REGULATIONS**

No residential building or structure shall exceed thirty-five (35) feet in height. All other buildings and structures shall not exceed their usual and customary heights.

#### **SECTION 6.05 AREA REGULATIONS**

No principal building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard, lot area, and building coverage requirements.

- A. **Front Yard** – There shall be a front yard of not less than fifty (50) feet.
- B. **Side Yard** – For residential buildings and structures; there shall be total side yards of not less than fifty (50) feet, provided, however, that no side yard shall be less than twenty (20) feet.
- C. **Rear Yard** – There shall be a rear yard of not less than fifty (50) feet.
- D. **Lot Area** – The minimum lot area and width for all non-residential uses shall be ten acres and 330 feet, respectively. The minimum lot area and width for all residential uses shall be two acres and 200 feet, respectively.

**SECTION 6.06 MINIMUM FLOOR AREA**

Each dwelling unit, unless specified elsewhere, shall have a minimum of nine hundred (900) square feet of usable floor area.

## **CHAPTER 7-R-2 LOW DENSITY RESIDENTIAL DISTRICT**

### **SECTION 7.01 DESCRIPTION AND PURPOSE**

This zoning district is intended for low density residential uses together with required recreational, religious and educational facilities.

### **SECTION 7.02 USE REGULATIONS**

Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Single family dwellings.
- B. Two family dwellings.

### **SECTION 7.03 USES SUBJECT TO A SPECIAL USE PERMIT**

A. Private and public schools, libraries, museums, art galleries and similar uses, when owned and operated by a governmental agency or non-profit organization and when authorized by the Township Planning Commission as a special use. In considering such authorization, the Township Planning Commission shall consider the following standards: (1) the size, nature and character of the proposed use; (2) the proximity of the proposed use to adjoining properties; (3) the parking facilities provided for the proposed use; (4) any traffic congestion or hazards which will be occasioned by the proposed use; (5) how well the proposed use harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood.

B. Parks, playground, community centers, governmental, administration, or service buildings which are owned and operated by a governmental agency or a noncommercial organization when authorized as a special use by the Township Planning Commission. In considering such authorization, the Township Planning Commission shall consider the following standards: (1) the necessity for such use for the surrounding neighborhood; (2) the proximity of the intended use to adjoining properties specifically including proximity to occupied dwellings; (3) the size, nature and character of the proposed use; (4) potential traffic congestion which might be occasioned by the intended use; (5) parking facilities to be provided for the proposed use; and (6) the effect of proposed use on adjoining properties and the surrounding neighborhood.

C. Churches when authorized by the Township Planning Commission as a special use. In considering such authorization, the Township Planning Commission shall consider the following standards: (1) the size, character and nature of the church building; (2) the proximity of the church to adjoining properties; (3) the off-street parking which is to be provided for the church; (4) the potential traffic congestion and hazards which will be caused by the church use; (5) the degree with which the church harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood; and (6) the effect of the church on adjoining properties and the surrounding neighborhood.



D. Home occupations in a single family dwelling when authorized as a special use by the Township Planning Commission utilizing the same standards as are provide in Section 5.03C.

E.. The township building inspector my issue a special temporary use permit for a mobile home for a period of up to one year in the event that a permanent residence is rendered uninhabitable by fire of other natural disaster. Any extensions of the temporary use permit must be authorized by the Township Zoning Board of Appeals as a variance.

F. Temporary housing in accordance with Section 10.26

G. Family Day Care Centers and Adult Foster Care Facilities.

#### **SECTION 7.04 HEIGHT REGULATIONS**

No building or structure shall exceed thirty-five (35) feet in height or two and one half (2½) stories.

#### **SECTION 7.05 AREA REGULATIONS**

No principal building or structure nor any enlargement thereof shall be hereafter erected except in conformation with the following yard, lot area and building coverage requirements.

- A. **Front Yard** – There shall be a front yard of not less than thirty (30) feet.
- B. **Side Yard** – There shall be total side yards of not less than twenty (20) feet; provided, however, that no yard shall be less than seven (7) feet.
- C. **Rear Yard** – There shall be a rear yard of not less than twenty-five (25) feet; provided, however, that in the case of lakefront lots, the rear yard shall be not less than fifty (50) feet.
- D. **Lot area and width (single family)** – The minimum lot area and width for a single family dwelling shall be eight thousand, five hundred (8,500) square feet and eighty-five (85) feet, respectively; provided, however, that the minimum lot area and width for lots not served with public water and sewer shall be one (1) acre and one hundred fifty (150) feet, respectively.

#### **SECTION 7.06 MINIMUM FLOOR AREA**

Each dwelling unit shall have minimum useable floor area as follows:

- A. **Single Family Dwelling** – nine hundred (900) square feet.
- B. **Two Family Dwelling** – six hundred fifty (650) square feet per unit.

## **CHAPTER 8-R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT**

### **SECTION 8.01 DESCRIPTION AND PURPOSE**

This zoning district is intended for medium density one and two family and low density multi-family residential and related uses.

### **SECTION 8.02 USE REGULATIONS**

Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Any use permitted in the R-2 Zoning District, subject, except as specifically provided otherwise in this chapter, to the same conditions, restrictions and requirements as are provided in the R-2 Zoning District.
- B. Multi-Family dwellings.
- C. Nursing homes, senior citizens housing, family day care homes, and adult foster care facilities.
- D. Home occupations in single family dwellings when authorized as a special use by the Township Planning Commission utilizing the same standards as are provided in Section 5.03 C.

### **SECTION 8.03 HEIGHT REGULATIONS**

No building or structure shall exceed thirty-five (35) feet in height or two and one half (2½) stories in height.

### **SECTION 8.04 AREA REGULATIONS**

No principal building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard, lot area and building coverage requirements.

- A. **Front Yard** – There shall be a front yard of not less than thirty (30) feet.
- B. **Side Yard** – There shall be total side yards as follows:
  - 1. For single and two family dwellings, the total side yards shall be not less than twenty (20) feet; provided, however, that no side yard shall be less than seven (7) feet.
  - 2. For multi-family dwellings and all other permitted uses, each side yard shall be not less than twenty (20) feet.
- C. **Rear Yard** – There shall be a rear yard of not less than twenty-five (25) feet; provided, however, that in the case of lakefront lots, the rear yard shall not be less than fifty (50) feet.

- D. **Lot Area and Width (Single Family)** – The minimum lot area and width for a single family dwelling shall be eight thousand, five hundred (8,500) square feet and eighty-five (85) feet respectively; provided, however, that the minimum lot area and width for lots not served with public water and sewer shall be one (1) acre and one hundred fifty (150) feet, respectively.
- E. **Lot Area and Width (Two Family)** – The minimum lot area and width for a two family dwelling shall be twenty thousand (20,000) square feet and one hundred (100) feet, respectively; provided, however, that the minimum lot area and width for lots not served with public water and sewer shall be on (1) acre and one hundred fifty (150) feet, respectively.
- F. **Lot Area and Width (Other than One and Two Family)** – The minimum lot width shall be one hundred fifty (150) feet. The minimum lot area for family dwellings shall be four thousand five hundred (4,500) square feet per dwelling unit; provided, however, that the minimum lot area for multi-family dwellings not served with public sewer and water one half (½) acre per dwelling unit. The minimum lot area for all other permitted uses shall be one half (½) acre.

#### **SECTION 8.05 MINIMUM FLOOR AREA**

Each single family and two family dwelling shall have minimum usable floor area as is required in the R-2 District. Each multi-family dwelling shall have minimum usable floor area as follows: One bedroom unit, seven hundred fifty (750) square feet per unit; two bedroom unit, eight hundred fifty (850) squared feet per unit; three bedroom unit, nine hundred fifty (950) square feet per unit; additional bedroom shall require an additional one hundred (100) square feet of usable floor area for each additional bedroom.

**CHAPTER 8-A-R-4 MOBILE HOME PARK DISTRICT**

**SECTION 8A.01 DESCRIPTION AND PURPOSE:**

This Zoning district is intended to provide for the location of mobile home dwellings in an attractive and orderly manner in Monterey Township. Monterey Township recognizes that mobile home park dwellings provide respectable lower cost housing for persons who might otherwise be economically unable to be located within the Township. Mobile home parks are characterized by relatively high density and by transient structured which are replaced periodically. Because of these traits, the mobile home park should be located in proximity to services and suitable transportation.

**SECTION 8A.02 USE REGULATIONS:**

Land, building or structured in this Zoning District may be used for the following purposes only:

- A. Mobile homes located in a mobile home park.
- B. Mobile home parks.
- C. Churches.
- D. Libraries.
- E. Fire stations.
- F. Public or parochial schools.
- G. Golf courses, parks and playgrounds.
- H. Home occupations.
- I. Accessory buildings and uses customarily incidental to the above Permitted Uses.
- J. Off-street parking in accordance with Section 11.01

**SECTION 8A.03 STANDARDS AND REQUIREMENTS FOR MOBILE HOME PARKS:**

Mobile home parks shall conform to the requirements as promulgated by the Michigan Mobile Home Park Commission Rules as amended and in accordance with Section 10.33

**SECTION 8A.04 SITE PLAN APPROVAL:**

For all uses permitted in this District, a site plan shall be submitted in accordance with Section 10.24

**CHAPTER 9-C-1 NEIGHBORHOOD BUSINESS DISTRICT**

**SECTION 9.01 DESCRIPTION AND PURPOSE**

This zoning district is for neighborhood convenience shopping including retail businesses or service establishments which supply commodities or perform services which meet the daily needs of the neighborhood.

**SECTION 9.02 USE REGULATIONS**

Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Those non-residential uses which are permitted in the Residential Zoning District, subject, except as specifically provided otherwise in this chapter, to the same conditions, restrictions and requirements as are provided in the residential zoning districts.
- B. Bakery goods store.
- C. Banks, loan and/or finance offices.
- D. Barber or beauty shop.
- E. Book, stationery or gift store.
- F. Candy store, soda fountain and/or iced cream store.
- G. Clothes cleaning and/or laundry pick-up station.
- H. Clothing and dry goods store.
- I. Delicatessen store.
- J. Dress shop.
- K. Drug store.
- L. Florist and gift shop without nursery.
- M. Funeral home.
- N. Grocery store and meat market.
- O. Hardware store.
- P. Household appliance store.
- Q. Jewelry store.

- R. Laundromats.
- S. Liquor store including beer and wine sales
- T. Nursery school and day nurseries.
- U. Paint and wallpaper store.
- V. Parking lots.
- W. Photographer.
- X. Radio and television store.
- Y. Restaurants and/or cafes without dancing, floor shows.
- Z. Service stations, and convenience stores including major auto repairs and convenience stores, if all repair work is conducted wholly within a completely enclosed building, when authorized by the Township Planning Commission as a special use. In considering such authorization, the Township Planning Commission shall consider the following standards: (1) the size, nature and character of the gas station; (2) the proposed location of the gas station; (3) the location of entrance drives and access to the gas station with respect to potential traffic congestion or hazards; (4) how well the gas station harmonizes, blends with and enhances adjoining properties and the surrounding neighborhood; (5) the need and necessity for the products and services of the gas station at the proposed location; and (6) the effect of the gas station on adjoining properties and the surrounding neighborhood.
- AA. Shoe repair shop.
- BB. Tailor and/or dress maker.
- CC. Variety store including notions and “five and ten” store.
- DD. Business signs, real estate signs, identifying sign, name plate.
- EE. Other similar retail business or service establishments which supply convenience commodities or perform services primarily for residents of the surrounding neighborhood when authorized by the Township Planning Commission as a special use. In considering such authorization, the Township Planning Commission shall consider the following standards: (1) the size, nature and character of the proposed use; (2) the proximity of the proposed use to adjoining properties; (3) the parking facilities provided for the proposed use; (4) any traffic congestion or hazard which will be occasioned by the proposed use; (5) how well the proposed use harmonizes, blends with and enhances adjoining properties and the surrounding neighborhood; (6) the need or necessity for the proposed use to service the needs of the surrounding neighborhood; and (7) the effect of the proposed use on adjoining properties and the surrounding neighborhood.

**SECTION 9.03 REQUIRED CONDITIONS**

- A. With the exception of automobile parking and off-street parking, all business, service or processing shall be conducted wholly within a completely enclosed building.
- B. All goods produced on the premises shall be sold at retail on the premises where produced.

**SECTION 9.04 HEIGHT REGULATIONS**

No building or structure shall exceed thirty-five (35) feet in height.

**SECTION 9.05 AREA REGULATIONS**

No principal building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard, lot area and building coverage requirements.

- A. **Front Yard** – Where the frontage on the same side of a street between two intersecting streets is located in a C Zoning District and where a setback has been established by fifty percent (50%) of said frontage, then this established setback shall determine the required front yard. In all other cases there shall be a front yard of not less than fifty (50) feet.
- B. **Side Yard** –
  - 1. Where the side of a lot in a C-1 Zoning District abuts upon the side of a lot in any R or AG Zoning District, each side yard shall be not less than twenty-five (25) feet.
  - 2. There shall be a side yard of not less than forty (40) feet on the street side of a corner lot.
  - 3. No side yard shall be required when directly abutting other commercial uses or land included in a C or I Zoning District.
- C. **Rear Yard** –
  - 1. Where the rear of a lot in a C-1 Zoning District abuts upon the side yard of a lot in any R Zoning District or AG Zoning District, there shall be a rear yard of not less than twenty-five (25) feet.
  - 2. In all other cases, there shall be a rear yard of not less than ten (10) feet.
  - 3. No accessory building shall be allowed closer than five (5) feet from the rear lot line.
- D. **Screening** – Side yards and rear yards adjoining any lot in an R or AG Zoning District shall be screened by a compact hedge of deciduous or evergreen trees which reach a minimum of five (5) feet in height and five (5) feet in width after one growing season; or (2) a solid wall or tight board fence six (6) feet in height.



- E. **Lot Area** – The minimum lot area shall be fifteen thousand (15,000) square feet; provided, however, that all private sewage disposal systems not connected to a public sewer must be approved by the Allegan County Health Department. The minimum lot width shall be one hundred (100) feet.

## **CHAPTER 9-A-I-1 LIGHT INDUSTRIAL DISTRICT**

### **SECTION 9A.01 DESCRIPTION AND PUPOSE:**

The purpose of this district classification is to establish a zone where designated industrial activities may locate which have minimal negative impacts on adjoining premises, which are more uniform in character, and which provide for a higher quality industrial land use.

### **SECTION 9A.02 USE REGULATIONS:**

For land and/or buildings, the uses and height and area requirements of the “I-1” District are as follows:

- A. **Wholesale and Warehousing:** The warehousing and/or wholesale selling of automotive equipment, dry goods and apparel, groceries and related products, raw farm products except livestock, electrical goods, hardware, plumbing, heating equipment and supplies, machinery and equipment, tobacco and tobacco products, paper and paper products, furniture and home furnishing, and any commodity the manufacture of which is permitted in this District, and truck terminals.
  
- B. **Industrial Establishments:**
  - 1. The assembly, fabrication, manufacture, packaging, or treatment of such products as food products (excluding butchering, animal slaughtering, etc.), candy, drugs, cosmetics and toiletries, musical instruments, optical goods, toys, novelties, electrical instruments and appliances, radios and phonographs, pottery and figurines or other ceramic products using only previously pulverized clay.
  - 2. The assembly, fabrication, manufacture or treatment of such products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, felt, fiber, glass, leather, paper, plastics, precious or semi-precious metals or stones, sheet metal (excluding large stampings such as automobile fenders or bodies), shells textiles, wax, wire, wood, (excluding saw and planning mills) and yarns;
  - 3. Tool and die shops, metal working machine shops involving the use of grinding or cutting tools; manufacturing of tools, dies, jigs, and fixtures; publishing, printing or forming of box, carton and cardboard products;
  - 4. Laboratories – research or testing;
  - 5. Central dry cleaning plants and laundries;
  - 6. Chemical cleaning or fumigating plants.

- C. **Public Utility Uses:** Electric transformer stations and substations, electric transmission towers, municipal buildings and uses, gas regulators and municipal utility pumping stations.
- D. **Accessory buildings** and uses customarily incidental to the above Principal Permitted uses.
- E. **Off-street parking** in accordance with Chapter XI.

**SECTION 9A.03 USES SUBJECT TO A SPECIAL USE PERMIT:**

- A. Kennels;
- B. Junk yards.

**SECTION 9A.04 COMPLIANCE WITH COUNTY AND STATE REGULATIONS:**

Any use permitted in the “I-1” District must also comply with all applicable County and State health and pollution laws and regulations.

**SECTION 9A.05 AREA, HEIGHT, BULK, AND PLACEMENT REQUIREMENTS:**

Unless otherwise specified are as provided in this “Schedule of Regulations.”

**SECTION 9A.06 SITE PLAN REVIEW:**

For all permitted uses and uses subject to a special use permit, a site plan shall be submitted in accordance with Section 10-24.

CHAPTER 9-B-SCHEDULE OF REGULATIONS							
ZONING DISTRICT	MIN BLDG SITE OR PARCEL AREA	MIN BLDG SITE OR PARCEL WIDTH	MINIMUM SETBACKS				MAXIMUM HEIGHT
			Front	Side	Total	Rear	
<b>AG-1 Agricultural District</b>	20 Acres	330'	50'	20'	50'	50'	35'
<b>R-1 Rural Estate District</b>	2 Acres	200'	50'	20'	50'	50'	35'
<b>R-2 Low Density Residential District</b>	1 Acre	150'	30'	7'	20'	25' <sup>c</sup>	35'
<b>R-3 Medium Density Residential District</b>	15,000 <sup>a</sup> Sq. Ft.	85' <sup>a</sup>	30'	7'	20'	25' <sup>c</sup>	35'
	1 Acre	150'		7'	20'	25' <sup>c</sup>	35'
<b>Two Family</b>	20,000 <sup>a</sup> Sq. Ft.	100' <sup>a</sup>	30'	7'	20'	25' <sup>c</sup>	35'
	1 Acre	150'		7'	20'	25' <sup>c</sup>	35'
<b>Multiple Family</b>	4,500 <sup>b</sup> Sq. Ft.	100' <sup>b</sup>	--	20'	40'	25'	35'
<b>R-4 Mobile Home Park</b>	10 Acres	--	--	--	--	--	--
<b>C-1 Neighborhood Business District</b>	15,000 Sq. Ft.	100'	50'	<sup>d</sup>	<sup>d</sup>	30' <sup>e</sup>	35'
<b>I-1 Light Industrial District</b>	20,000 Sq. Ft.	100'	50'	20'	40'	30' <sup>e</sup>	35'

<sup>a</sup> With water and sewer      <sup>b</sup> Per multiple family unit      <sup>c</sup> Rear setbacks on lake lots shall be a minimum of fifty (50) feet

<sup>d</sup> Any side setback which abuts residentially agriculturally zoned property shall be a minimum of 30';

<sup>e</sup> Any rear setback which abuts agriculturally or residentially zoned property shall be a minimum of 50'

## **CHAPTER 9-C-OPEN SPACE PRESERVATION OVERLAY**

### **SECTION 9C-01 INTENT**

It is the intent of the Article to offer an alternative to traditional subdivisions through the use of Planned Unit Development legislation, as authorized by Section 16(c) of the Michigan Zoning Act (P.A. 110 of 2006, as amended) and with the Open Space Preservation Act (P.A. 177 of 2001) for the purpose of:

- A. encouraging the use of Township land in accordance with its character and adaptability;
- B. assuring the permanent preservation of open space, agricultural lands, and other natural resources;
- C. providing recreational facilities within a reasonable distance of all residents of the Open Space Community development;
- D. allowing innovation and greater flexibility in the design of residential developments;
- E. facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- F. ensuring compatibility of design and use between neighboring properties; and,
- G. encouraging a less sprawling form of development, thus preserving open space as undeveloped land.

These regulations are intended to preserve a traditional rural character to the land use pattern in the Township through the creation of small residential nodes contrasting with open space and less intensive land uses. This Article is not intended as a device for circumventing the zoning regulations of the Township, the standards set forth therein, nor the planning concepts upon which the Zoning Ordinance has been based.

These regulations are intended to result in a specific development substantially consistent with zoning Ordinance standards, yet allow for modifications from the general standards to insure appropriate, fair and consistent decision making.

The open space community district is established as an overlay district applicable to the AG-1 and R-1 Districts.

### **SECTION 9C-02 SCOPE**

For the purposes of this Article, an “open space community” is defined as a predominately single family residential development in which dwelling units are placed together into one or more groupings within a defined project area. The dwelling units are separated from adjacent

properties or other groupings of dwellings by substantial open space that is perpetually protected from development.

### **SECTION 9C-03 ELIGIBILITY CRITERIA**

To be eligible for open space community consideration, the applicant must present a proposal for residential development that meets each of the following:

- A. **Recognizable Benefits.** An open space community shall result in a recognizable and substantial benefit, both to the residents of the property and to the overall quality of life in the Township. The benefits can be provided through site design elements in excess of the requirements of this Ordinance such as high quality architectural design, extensive landscaping, provide transition areas from adjacent residential land uses, unique site design features, unified access, preservation of woodlands and open space, particularly along major thoroughfares, and buffering development from lakes, rivers, streams and wetlands. This benefit should accrue, in spite of any foreseeable detriments of the proposed development.
- B. **Minimum Project Size.** The minimum size of an open space community development shall be ten (10) acres of contiguous land.
- C. **Open Space.** The proposed development shall provide at least one of the following open space benefits:
  - 1. **Significant Natural Assets.** The site contains significant natural assets such as land used in agricultural production, woodlands, individual trees over twelve (12) inch diameter, measured at breast height, rolling topography with grades exceeding 15%, significant views, natural drainage ways, water bodies, floodplains, regulated or non-regulated wetlands, or natural corridors that connect quality wildlife habitats which would be in the best interest of the Township to preserve and which might be negatively impacted by conventional residential development. This determination shall be made by the Township Board of Trustees after review of a Site Analysis Plan, prepared by the applicant, that inventories these features. If animal or plant habitats of significant value exist on the site, the Planning Commission, as a condition of approval, may require that the Open Space Community plan preserve these areas in a natural state and adequately protect them as nature preserves of limited access areas.
  - 2. **Recreation Facilities.** If the site lacks natural features, it can qualify if the development will preserve an existing recreation facility or provide usable recreation facilities to which all residents of the development shall have reasonable access. Such recreation facilities include areas such as a neighborhood park, golf course, passive recreational facilities, soccer fields, ball fields, bike paths or similar facilities which provide a feature of community-wide significance and enhance residential development.

3. **Creation of Natural Features.** If the site lacks existing natural features, it can also qualify if the development will create significant woodland features. The creation of significant woodland features shall be considered providing perimeter buffer plantings and interior street tree plantings at a rate double (2x) what is required by this Ordinance

D. **Guarantee of Open Space.** The applicant shall guarantee to the satisfaction of the Township Board that all open space portions of the development will be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the open space community plan.

E. **Cohesive Development.** The proposed development shall be designed to create a cohesive community development through common open space areas for passive or active recreation and resident interaction. All open space areas shall be equally available to all residents of the Open Space Community.

F. **Unified Control.** The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contract, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.

G. **Density Impact.** The proposed type and density of use shall not result in an unreasonable increase in the need for or impact to public services, facilities, roads, and utilities in relation to the use or uses otherwise permitted by this Ordinance, and shall not place an unreasonable impact to the subject and/or surrounding land and/or property owners and occupants and/or the natural environment. The Township Board may require that the applicant prepare an impact statement documenting the significance of any environmental, traffic or socio-economic impact resulting from the proposed open space community. An unreasonable impact shall be considered an unacceptable significant adverse effect on the quality of the surrounding community and the natural environment in comparison to the impacts associated with conventional development. The Township Board may require that the applicant prepare a quantitative comparison of the impacts of conventional development and the open space community plan to assist in making this determination (such as an overlay of conceptual development plans, on a natural features map, illustrating other site development options to demonstrate the impacts have been minimized to the extent practical). If the cumulative impact creates or contributes to a significant problem relative to infrastructure demand or environmental degradation, mitigation shall be provided to alleviate the impact associated with the open space community.

H. **Township Master Plan.** The proposed development shall be consistent with and further the implementation of the Township Master Plan.

**SECTION 9C-04 PROJECT DESIGN STANDARDS**

A proposed open space community shall comply with the following project design standards:

**Location:** An open space community may be approved within any of the following zoning districts: A-1 and R-1.

**Permitted Uses:** Generally an open space community is restricted to single family detached or attached residential dwellings.

**Dwelling Density:** The number of dwelling units allowable within an open space community project shall be determined through preparation of a parallel plan.

A. The applicant shall prepare, and present to the Planning Commission for review, a parallel design for the project that is consistent with State, County and Township requirements and design criteria for a tentative preliminary plat. The parallel plan shall meet all standards for lot size (as shown in paragraph B), lot width and setbacks as normally required, public roadway improvements and private parks, and contain an area which conceptually would provide sufficient area for storm water detention. Lots in the parallel plan shall provide sufficient building envelope size without impacting wetlands regulated by the Michigan Department of Environmental Quality.

B. The parallel plan shall be prepared with the following minimum lot areas. The parallel plan is only used to determine allowable density for an open space community project. The following parallel plan minimum lot areas incorporate a density bonus for qualifying open space community projects that meet all requirements of this ordinance:

Underlying Zoning District	Parallel Plan Minimum Lot Size (square feet) 111	Parallel Plan Minimum Width (lineal feet)
A-1	653,400	300'
R-1	65,340	180'

C. The Planning Commission shall review the design and determine the number of lots that could be feasibly constructed and be economically viable following the parallel design. This number, as determined by the Planning Commission, shall be the maximum number of dwelling unity allowable for the open space community project.

**Base Zoning Regulations:** Unless specifically waived or modified by the Township Board, all Zoning Ordinance requirements for the underlying zoning district, except for minimum lot area and lot width, and other Township regulations shall remain in full force. However, no



building site or residential lot shall be less than 43,560 square feet and 125 feet in width nor exceed two acres and 250 feet in width. The Township Board may require building sites to be wider than the stated minimum widths if there are documented site limitations which make development impractical.

**Regulatory Flexibility:**

A. To encourage flexibility and creativity consistent with the open space community concept, the Township Board may grant specific departures from the requirements of the Zoning Ordinance as part of the approval process for the following:

1. Yard, lot width, and bulk standards may be modified, provided that such modification results in enhanced buffering from adjacent land uses or public right-of-ways, or preservation of natural features.
2. **Side yard requirements in an Open Space Community may be modified using the formula that there shall be two (2) total side yards of not less than twenty-five (25) percent of the lot width, provided however that no side yard shall be less than ten (10) percent of the lot width.**
3. Any modification to the Natural River District standards must also be approved by the Michigan Department of Environmental Quality, if required.

B. Any regulatory modification shall be approved through a finding by the Township Board that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of an open space community plan may be appealed to the Zoning Board of Appeals. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the Open Space Community, provided such variance does not involve alterations to open space areas as shown on the approved Open Space Community site plan.

**SECTION 9C-05 OPEN SPACE REQUIREMENTS**

A. All land within a development that is not devoted to a residential unit, an accessory use, vehicle access, vehicle parking, a roadway or, an approved land improvement shall be set aside as common land for recreation, conservation, agricultural uses, or preserved in an undeveloped state. Grading in the open space shall be minimal, with the intent being to preserve existing topography.

B. An open space community shall maintain a minimum of fifty percent (50%) of the gross area of the site as dedicated open space held in common ownership. A minimum of ten percent (10%) of the open space shall be upland area that is accessible to all residents of the Open Space Community and not include gold course fairways.

**C. Areas Not considered Open Space.** The following land areas are not included as dedicated open space for the purposes of this Article:

1. The area of any street right-of-way proposed to be dedicated to the public. This provision shall not preclude the future dedication of a private road easement to a public road agency.
2. Any portion of the project used for commercial purposes.
3. The required setbacks surrounding a residential structure that is not located on an individual lot of condominium site.

**D.** The common open space may either be centrally located along the road frontage of the development, located to preserve significant natural features, or located to connect open spaced throughout the development. The open space along the exterior public roads shall generally have a depth of at least one hundred (100) feet, either landscaped or preserved in a natural wooded condition.

**E.** Connections with adjacent open space, public land or existing or planned pedestrian/bike paths may be required by the Township Board.

**F.** The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the Township Board, such as

1. recorded deed restrictions,
2. covenants that run perpetually with the land, or
3. a conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L. 399.251).

Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. Such conveyance shall:

1. Indicate the proposed allowable use(s) of the dedicated open space. The Planning Commission may require the inclusion of open space restrictions that prohibit the following:
  - a. Dumping or storing of any material or refuse;
  - b. Activity that may cause risk of soil erosion or threaten any living plant material:

- c. Cutting or removal of live plant material except for removal of dying or diseased vegetation;
  - d. Use of motorized off road vehicles;
  - e. Cutting, filling or removal of vegetation from wetland areas;
  - f. Use of pesticides, herbicides or fertilizers within or adjacent to wetlands.
2. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
  3. Provide standards for scheduled maintenance of the open space.
  4. Provide for maintenance to be undertaken by Monterey Township in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.

**G. Continuing Obligation.** The dedicated open space shall forever remain open space, subject only to uses approved by the Township on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easements for utilities and septic systems, shall be strictly prohibited. Open space may include golf course are, provided that it forever remains outdoor recreation of natural undeveloped land.

**H. Allowable Structures.** Any structure(s) or building(s) accessory to a recreation, conservation or agriculture use may be erected within the dedicated open space, subject to the approved open space plan. These accessory structure(s) or building(s) shall not exceed , in the aggregate, one percent (1%) of the required open space area.

**Transition Areas.** Where the Open Space Community abuts a single family residential district, the Township Board may require a transition area. Grading within the transition area shall be minimal unless needed to provided effective buffering or accommodate drainage. If the grade change adjacent to single family residential is to be varied by more than three (3) feet, the site plan shall include cross sections illustrating existing and proposed grades in relation to existing and proposed building heights. Perspective renderings from adjacent residential units are encouraged. The Township Board may review the proposed transition area to ensure compatibility. The Township Board may require that the transition area consist of one or more of the following:

- A. A row of single-family lots of condominium sites similar to adjacent single family development in terms of density, lot area, lot width, setbacks and building spacing.

B. Woodlands, natural features or a landscaped greenbelt sufficient to provide an obscuring effect.

C. Open or recreation space.

D. Significant changes in topography which provide an effective buffer.

**Access:** Direct access onto a County road or State highway shall be required to an open space community. The nearest edge of any entrance or exit drive shall be located no closer than two hundred (200) feet from any existing street or road intersection (as measured from the nearest intersection right-of-way line.)

**Internal Roads:** Internal road within an open space community may be public or private.

A. Construction of private roads as a means of providing access and circulation is permitted. Private roadways within an open space community must meet the design requirements of the Township. The Township Board may modify these requirements, if all of the following findings are made:

1. There is no potential for the road to connect with abutting land or be extended to serve additional land in the future.
2. Significant natural features such as mature trees, natural sloped, wetlands or other water bodies would be preserved through allowing a modification to the Private Road standards.

B. Where private roads are developed, a maintenance plan, including a means of guaranteeing maintenance assessments from the affected property owners, shall be reviewed and approved by the Township Board.

**Natural Features.** The development shall be designed to promote the preservation of natural features. If animal or plant habitats of significant value exist on the site, the Township Board, as a condition of approval, may require that the open space community plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas. The Planning Commission may also require a minimum of twenty-five (25) foot wide undisturbed open space setback from the edge of any lake, pond, river, stream or wetland; provided that the Township Board may permit trails, boardwalks, observation platforms or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.

## **SECTION 9C-06 PROJECT STANDARDS**

In considering any application for approval of an open space community site plan, the Township Board shall make their determinations on the basis of the following standards for site plan approval.

**Compliance with the Open Space Community Concept:** The overall design and land uses proposed in connection with an open space community shall be consistent with the intent of the open space community concept, as well as with specific design standards set forth herein.

**Compatibility with Adjacent Uses:** the proposed open space community plan shall set forth in detail, all specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design features that exhibit due regard for the relationship of the development to surrounding properties, the character of the site, and the land uses. In determining whether this requirement has been met, consideration shall be given to:

- A. The bulk, placement, and materials of construction of proposed structures.
- B. Pedestrian and vehicular circulation.
- C. The location and screening of vehicular use or parking areas.
- D. The provision of landscaping and other site amenities.

**Impact of Traffic:** The open space community shall be designed to minimize the impact of traffic generated by the proposed development on uses surrounding.

**Protection of Natural Environment:** The proposed open space community shall be protective of the natural environment. It shall comply with all applicable environmental protection laws and regulations.

**Compliance with applicable Regulations:** The proposed open space community shall comply with all applicable Federal, state, and local regulations.

**Township Master Plan:** The proposed open space community shall be consistent with and further the implementation of the Township Master Plan.

**Conditions:** Reasonable conditions may be **required** with the special approval of an Open Space Community, to the extent authorized by law, for the purpose of ensuring 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 of activity, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, promoting the use of land in a socially and economically desirable manner, and further the implementation of the Township Master Plan. Conditions imposed shall be designed to protect natural

resources, and the public health, safety and welfare of individuals in the project, those immediately adjacent and the community as a whole; shall be reasonable related to the purposes affected by the Open Space Community; shall be necessary to meet the intent and purpose of this Ordinance and implement the Township Master Plan; and be related to the objective of ensuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the special approved.

## **SECTION 9C-07 GENERAL REQUIREMENTS**

**General Application Requirements:** The application for approval of an open space community shall be made according to procedures and guidelines adopted by resolution of the Township Board. The required materials shall be submitted to the Township Zoning Administrator with all required fees.

**Effect of Approval:** Approval of an open space community proposal shall not require, nor shall it be construed as an amendment to the Zoning Ordinance. All improvements and uses of the site shall be in conformity with the approved open space community site plan and comply fully with any conditions.

**Recording of Action:** The applicant shall record an affidavit with the register of deeds containing the full legal description of the project site, specifying the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved open space community plan unless an amendment is adopted by the Township. In addition, all deed restrictions and easements shall be duly filed with the register of deeds of the County and copies of recorded documents presented to the Township.

**Land Use Permit:** Following final approval of the open space community site plan and final approval of the engineering plans, a land use permit may be obtained. It shall be the responsibility of the applicant to obtain all other applicable Township, county, State or Federal permits.

**Initiation of Construction:** If construction has not commenced within twenty-four (24) months of final approval, all Township approvals become null and void. The applicant may apply in writing to the Township Board for an extension, not to exceed twelve (12) months. a maximum of two (2) extensions may be allowed.

**Continuing Adherence to Plan:** Any property owner who fails to maintain an approved site design shall be deemed in violation of the use provisions of the Zoning Ordinance and shall be subject to the penalties for same.

**Performance Guarantee:** The Township Board may require that a performance guarantee be deposited with the Township to insure completion of improvements.

## **SECTION 9C-08 SCHEDULED PHASING**

**Scheduled Phasing:** When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the open space community and the residents of the surrounding area.

Each phase of the project shall be commenced within twenty-four (24) months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, approval of the plan shall become null and void.

## **CHAPTER 10-GENERAL PROVISIONS**

These general provisions shall apply to all zoning districts.

### **SECTION 10.01 THE EFFECT OF ZONING**

Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this ordinance.



**SECTION 10.02 RESTORATION OF UNSAFE BUILDING**

Subject to the provisions of the Nonconforming Uses Chapter, nothing in this ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.

**SECTION 10.03 AREA, HEIGHT, AND USE CONDITIONS, AND EXCEPTIONS**

- A. **Required area or space** – A lot or lots in common ownership or a yard court parking area or other space shall not be divided, altered or reduced so as to make it not in conformance with the minimum requirements of this ordinance. If already less than the minimum requirements of this ordinance, a lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to increase its compliance with such minimum requirements.
  
- B. **Existing Lots of Record** – If a lot in an Agricultural or Residential Zoning District, which is platted or parcel otherwise of record as of the effective date of this ordinance, does not comply with the area and/or width requirements of its zoning district, then such lot may be used for one family use only and then only if such one family use is first authorized by the Township Zoning Board of Appeals as a variance. If a lot in a Commercial or Industrial Zoning District, which is platted or otherwise of record as of the effective date of this ordinance, does not comply with the area and/or width requirements of the Commercial or Industrial Zoning District, then such lot may be used only if first authorized by the Township Zoning Board of Appeals as a variance.
  
- C. **Exceptions** – The following buildings and structures shall be exempt from height regulations in all zoning districts; parapet wall not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, copulas, domes, spires, penthouses housing necessary mechanical appurtenances, and television and radio reception and transmission antennas and towers which do not exceed fifty (50) feet in height. Additions to existing buildings and structures which do not exceed the height limitations of their zoning district up to the height of an existing building or structure on the same lot are permitted if the lot is large enough to encompass a circular area with a radius at least equal to the height of the structure or building.

**SECTION 10.04 ESSENTIAL SERVICE**

The erection, construction alteration or maintenance by public utilities or governmental units, boards or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health, safety or general welfare is permitted in any zoning district.

Notwithstanding the exceptions contained in the immediately preceding sentence:

- A. Electrical substations and/or gas regulator stations shall be enclosed with a fence or wall six (6) feet high and adequate to obstruct passage of persons or materials.
- B. Public utility facilities in any zoning district are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.

**SECTION 10.05 REQUIRED YARD OR LOT**

All lots, yards, parking areas or other spaces created after the effective date of this ordinance shall comply with the minimum requirements of the zoning district in which they are located.

**SECTION 10.06 CONTROL OF HEAT, GLARE, FUMES, DUST, NOISE, VIBRATION AND ODORS**

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

**SECTION 10.07 TEMPORARY USES OR STRUCTURES REQUIRING ZONING INSPECTOR AUTHORIZATION**

- A. Upon application, the zoning inspector shall issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located. Each permit shall be valid for a period of not more than six (6) calendar months and shall be renewed by zoning inspector for four (4) additional successive periods of six (6) calendar months or less at the same location if such building or yard is still incidental and necessary to construction at the site where located.
  
- B. Upon application, the zoning inspector shall issue a permit for a temporary office which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall specify the location of the office and area and shall be valid for a period of not more than six (6) calendar months and shall be renewed by the zoning inspector for four (4) additional successive periods of six (6) calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project.

**SECTION 10.08 ACCESORY USES**

- A. In any zoning district, accessory uses, incidental only to a permitted use, are permitted when located on the same lot provided, however, that such accessory uses shall not involve the conduct of any business, trade or industry.
- B. Recreational vehicles are permitted within any zoning district as a detached temporary accessory use, provided that the use shall be subject to the requirements of Section 10.08A and provided further that:
  - 1. The use or occupancy of a recreational vehicle as an accessory use shall not continue for a period of more than 180 consecutive days.
  - 2. A recreational vehicle shall contain fresh water storage and self-contained sanitary facilities with no sanitary discharge on the site.
  - 3. A recreational vehicle shall be placed or located a minimum of 100 feet from any lake, river, pond, stream or other body of water.
  - 4. If the recreational vehicle uses an electrical service or hook-up outside of said vehicle then, and in that event, said electrical hook-up or service shall be approved by the township electrical inspector prior to its use.

**SECTION 10.09 ACCESSORY BUILDINGS**

- A. In any zoning district an accessory building may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, it shall comply in all respects with the requirements of this ordinance applicable to the permitted principal building. The architectural character of all accessory buildings shall be compatible and similar to the principal building.
- B. Detached accessory buildings shall not be located closer than five (5) feet to the rear lot line or closer than forty (40) feet to the waters' edge in the case of a waterfront lot (except that pump houses may be located within forty (40) feet of the waters' edge if they do not exceed three (3) feet in height) and shall not occupy more than thirty percent (30%) of any required rear yard space; they shall not be closer to any side lot line or front lot line than the principal building is permitted.
- C. The distance between a detached accessory building and any principal building shall not be less than ten (10) feet. Accessory buildings shall be considered as attached to a principal building when the distance between the two (2) buildings is solidly covered by a breezeway, portico, covered colonnade or similar architectural device.
- D. A garage may be constructed, erected and placed in the front yard of any waterfront lot which is platted or otherwise of record as of the effective date of this ordinance if it is an accessory building and if it is located not less than ten (10) feet from the edge of the street.



**SECTION 10.10 PRINCIPAL BUILDING ON A LOT**

In the R-2 and R-3 Residential Zoning Districts, no more than one (1) principal building shall be placed on a lot unless provided for in this ordinance as a special use approved by the Monterey Township Planning Commission.

**SECTION 10.11 DOUBLE FRONTAGE LOTS**

Building on lots having frontage on two (2) intersecting or nonintersecting streets shall comply with front yard requirements on both such streets.

## **SECTION 10.12 SIGNS**

It is hereby determined that regulation of the location, size, placement and certain features of signs is necessary to enable the public to locate goods, services and facilities without difficulty and confusion, to promote traffic safety, safeguard public health and welfare, and facilitate police and fire protection. In addition, it is the intent of this Ordinance to assure the continued attractiveness of the total community environment through the adoption of discretionary controls designed to preserve scenic, aesthetic and economic values within the Township.

These regulations are designed to permit maximum legibility and effectiveness of signs and to prevent their over concentration, improper placement and excessive height, bulk and area. In general, it is intended that signs of a general commercial or industrial nature be prohibited in districts where commercial or industrial activities are prohibited and that signs in residential districts be limited to those directly related to activities on the premises.

**A. Computation of Sign Area:** For the purposes of this Ordinance, the total area of a sign shall be expressed in square feet and shall be computed as follows:

1. **Single Face Sign:** The total area of a single-face sign shall be computed as the number of square feet within any single or combination of geometric shapes -- such as a square, rectangle, triangle or circle -- encompassing the extreme limits of an individual letter(s), word(s), message(s), representation, emblem or any similar figure, including open space(s), together with any frame or other material forming an integral part of display used to differentiate such sign from the background against which it is placed.
2. **Double-Face Signs:** For double face signs having two (2) faces of equal size arranged and/or positioned back to back, parallel to each other, with no more than a two (2) foot space between the two faces; the area of the sign shall be computed as one-half (½) the total area of the two (2) faces. When the faces of such a sign are not of equal area, then the area of the sign shall be computed as the total area of the largest face.
3. **Three Dimensional Signs:** For signs which are designed as a three dimensioned geometric form such as a sphere, cone, cylinder, or cube; the area shall be computed as one half (½) the total surface of the geometric form.

**B. Permit Required:**

1. **Sign Erection Permit:** It shall be unlawful for any person to construct, erect, re-erect, move, alter, enlarge, or illuminate, any sign unless a permit shall have been first obtained from the Zoning Administrator, except as provided in Section 10.12D (Signs Exempt from Permit Requirement). Any sign that makes use of electricity, shall, in addition to a sign permit, require an electrical permit, regardless of size.

2. **Sign Maintenance or Change of Message:** No permit shall be required for ordinary servicing, repainting of existing sign message, or cleaning of a sign. No permit is required for change of message of a sign designed for periodic message change without change of structure, including a bulletin board or billboard, but not including a sign to which a new permanent face may be attached.
3. **Planning Commission Approval:** All subdivision/development signs, time/date/temperature signs, or any type of sign not explicitly defined herein, must be approved by the Monterey Township Planning Commission before a permit shall be issued.
4. **Permit Applications:** Applications for sign permits shall be made upon forms provided by the Zoning Administrator for this purpose and shall contain the following information:
  - a. Name, address and phone number of applicant.
  - b. Location of the building, structure, or lot on which the sign is to be attached or erected.
  - c. Position of the sign on the building, structure or lot on which the sign is to be attached or erected.
  - d. Position of the sign in relation to nearby buildings, structures, signs, property lines, and rights of way, existing or proposed.
  - e. Zoning district in which the sign is to be located.
  - f. Two (2) copies of the sign plans and specifications for construction, and attachment to the building or ground. The sign plans shall include all pertinent data including highest point, low point clearance, face outline and total face area with method of calculation. When public safety so requires, the specifications shall include the certificate or seal of a registered structural or civil engineer as a condition to the issuance of a permit.
  - g. Name and address of the sign erector.
  - h. Such other information as the Zoning Administrator may require to show full compliance with this and all other applicable laws of the Township and the State of Michigan.
5. **Sign Erection Permit Expiration.** A sign permit shall become null and void if the

work for which the permit was issued is not completed within 90 days of the date of issue.

6. **Certification:** All signs shall be inspected at original installation and if found to be in full compliance with the provisions of this Chapter, shall be issued a Zoning Permit.

### **C. General Sign Provisions**

1. **Public Rights of Way:** No sign (or any pole or support cable of any nature) except those established and maintained by the township, county, state, or federal governments, shall be located in, project into, or overhang a public right-of-way or dedicated public easement, unless otherwise authorized in this Ordinance.
2. **Sign Heights:** The highest point of any sign shall not exceed twenty-five (25) feet above the ground or grade level.
3. **Traffic Interference.** No advertising device shall be erected or maintained which simulates or imitates in size, color, lettering, or design any traffic sign or signal or other word, phrase, symbol, or character in such manner as to interfere with, mislead, confuse or create a visual impediment or safety hazard to pedestrian or vehicular traffic.
4. **Clear Corner Vision:** No sign above a height of thirty (30) inches shall be located within, project into, or overhang the triangular area formed at the intersection of any two street right-of-way lines (existing or proposed) by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection, unless visual under clearance can be assured on the plans.
5. **Proximity to Electrical Conductors:** No sign shall be erected so that any part including cables, guys, etc., will be within ten (10) feet of any electrical conductor, electric light pole, street lamp, traffic light, or other public utility pole or standard.
6. **Illumination:** All illuminated signs shall be so arranged or shielded so as not to interfere with the vision of persons on adjacent thoroughfares. In no event shall light from an illuminated sign shine on adjacent property which is used for residential purposes.
7. **Fire Escapes:** No signs of any kind shall be attached to or placed upon a building in such a manner as to obstruct any fire escape.
8. **Wall Signs:** No wall sign shall project beyond or overhang the wall, or any permanent architectural feature and shall not project above or beyond the highest point of the roof or parapet.

9. **Freestanding Signs:** With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.
10. **Liability Insurance:** If the height of a proposed or existing sign is such that if it fell or could fall into the public right-of-way or adjacent property, the owner of said sign shall carry sufficient liability insurance to protect the public and adjacent property owners from damage and injury from the fallen sign.

**D. Signs Exempt from Permits:** No sign permit is required for signs listed below. Such exemptions, however, shall not be construed to relieve the owner for its proper location, erection, and maintenance.

1. **Government Signs.** Signs erected by or on behalf of or pursuant to the authorization of a government body, including legal notices, informational signs, directional, or regulatory signs.
2. **Flags:** Flags, pennants or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
3. **Address Signs:** Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
4. **Street Signs:** Signs erected by the township, county, state, or federal government for street names, traffic control, or direction and information.
5. **Private Traffic Signs:** Signs directing and guiding traffic and parking on private property that do not exceed four (4) square feet each and bear no advertising matter.
6. **Handicapped Signs:** Not exceeding four (4) square feet each and bearing no advertising matter.
7. **Architectural Features/Artwork:** Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.
8. **Small Accessory Signs:** Any accessory sign erected on a premise which is no more than four (4) square feet in area, such as no trespassing signs, garage sale signs, and signs warning of animals.

9. **Temporary Signs, Banners, Flags:** Temporary signs, not specifically regulated in any other section of this Ordinance, including but not limited to: political or campaign signs, real estate signs, signs for special events or activities, air or gas filled signs, banners, flags, and the like shall be permitted subject to the following conditions:
  - a. No temporary sign or devices shall be located in the public right-of-way, attached to any utility pole, or located within five (5) feet from any street right-of-way.
  - b. All temporary signs must be removed within fourteen (14) days of the conclusion of the event, activity, election, sale, etc., for which the temporary sign is displayed.
  - c. The total area and height of temporary signage shall not exceed the following standards:
    - i. In residential districts, temporary signage shall be limited to six (6) square feet in area and six (6) feet in height.
    - ii. In all commercial and industrial districts, temporary signage shall not exceed thirty-two (32) square feet of total sign area per side or a height of eight (8) feet.
10. Seasonal produce and farm product stands.

**E. Signs Prohibited Throughout the Township:** The following signs are prohibited throughout the Township, notwithstanding anything to the contrary in this Chapter.

1. **Unsafe Signs:** Any sign which is structurally or electrically unsafe.
2. **Utility Poles and Landscaping:** Any sign erected on a utility pole, directional sign post, or landscaping including trees. Prohibited signs shall not include street signs erected by the township, county, state, or federal government or a public transit agency.
3. **Businesses No Longer Existing (Abandoned Signs):** Any business sign or sign structure now or hereafter existing which advertises a business conducted or a product sold, which no longer exists or is no longer in business on the premises on which the sign is located. Such sign shall be considered abandoned and shall, within 30 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.
4. **Sign Structure Without Sign:** Any sign structure or frame no longer supporting or containing a sign. The owner of the property where the sign is located shall, within 30

days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to prevent the changing of the message of a sign.

5. **Other Signs Prohibited:** Other signs not expressly permitted shall be prohibited.

## F. District Regulations

### 1. Signs Permitted in Agricultural and Residential Districts:

- a. For each dwelling unit, one (1) address sign
- b. Small accessory signs no more than four (4) square feet in area, such as no trespassing signs, garage sale signs, and signs warning of animals. The total area of all small accessory signs on one premise shall not exceed eight (8) square feet.
- c. One (1) subdivision entrance sign per vehicle entrance may be permitted on private property in compliance with the corner clearance provisions and shall not exceed twenty-four (24) square feet in area or a height of six (6) feet above grade. The location and appearance of all subdivision/condominium signs shall be subject to review and approval by the Planning Commission at the time of site plan review, provided that such signs shall be located no closer than twelve (12) feet from any property line. Adequate provisions shall also be made at the time of site plan review to insure continued maintenance of the sign.
- d. No more than one (1) freestanding and one (1) wall institutional sign for schools, churches, libraries, or similar institutions having an area of no more than thirty-two (32) square feet, having a height of no more than six (6) feet above the established grade, and located no closer than ten (10) feet from any property line.
- e. Signs of a combined area of not more than thirty-two (32) square feet advertising the name and activities of a permitted nonresidential use or legal non-conforming use. Said sign shall be located on the same parcel as the use. Signs for discontinued legal non-conforming uses shall be removed as provided for in this Chapter.
- f. Customary farm and crop signs on active farms.



**2. Signs Permitted in the C-1 Neighborhood Business District**

- a. The total sign area for an occupied parcel of property in the C-1 Commercial District shall not exceed 125 square feet per 100 feet of street frontage with the total sign area for any parcel not to exceed 200 square feet.
- b. One (1) freestanding sign may be allowed per property. Such sign shall not exceed twenty-five (25) feet in height and 100 square feet in area.
- c. In addition to the signs allowed in paragraphs 1 and 2 above, wall sign(s) may be erected on the rear or parking lot side of a premises not exceeding one-half ( $\frac{1}{2}$ ) square foot for each linear foot of the rear length of the principle building(s), provided that the total sign area shall not exceed thirty-two (32) square feet.
- d. Gasoline service stations shall be permitted signs on each pump island indicating the prices and types of gasoline and the type of service. The aggregate area of such signs shall not exceed twenty (20) square feet per pump island. In no event shall the total area of all such signs exceed one-hundred twenty (120) square feet.

**3. Signs Permitted in the I-1 Light Industrial District:**

- a. One (1) wall sign may be erected per building face up to one-hundred (100) square feet in area or 10% of the total facade area of the building whichever is less.
- b. One (1) freestanding (ground or pole mounted) sign may be erected provided said sign does not exceed one-hundred (100) square feet of display area per side. Such sign shall have a height of no more than twenty (20) feet above the established grade and be erected no closer than twenty (20) feet from any property line.
- c. In addition to signs permitted in paragraph 1 above, one (1) wall sign shall be permitted for each tenant having an individual means of entranceway into the side or rear of a building. Such sign shall not exceed six (6) square feet in area, and shall be erected not less than four (4) feet nor more than twelve (12) feet above the established grade.
- d. Directional signs, up to four (4) square feet in area, designating entrances, exits, parking and unloading areas, shipping docks, and similar internal traffic control signs shall be permitted and located no closer than within five (5) feet of any property line.

**G. Construction and Maintenance Standards**

1. **Materials and Design:** All signs shall be designed, constructed and maintained in conformity with the provisions for materials, loads, and stresses of the latest adopted edition of the Building Code and requirements of this Chapter.
2. **Fastenings:** All signs must be erected in such a manner and with such materials to remain safe and secure during the period of use, and all bolts, cables, and other parts of such signs shall be kept painted and free from corrosion. Any defect due to the fault of the erector shall be repaired by the erector.
3. **Freestanding Signs:** Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is no danger that either the sign or the supportive structure may be moved by the wind or other forces and cause injury to persons or property.
4. **Sanitation/Landscaping:** Property surrounding any freestanding sign shall be kept clean, sanitary and free from obnoxious and offensive substances, weeds, debris, rubbish, and flammable material. All plant materials and other landscaping surrounding a freestanding sign shall be maintained on a regular basis, including pruning, mowing, watering, fertilizing and replacement of dead and diseased materials.
5. **Maintenance:** All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. Peeling or missing paint, holes, broken, cracked, bent, warped, rotted, discolored, sagging, out of plumb, worn, rusted or missing material parts shall be repaired within fifteen (15) days of written notification of the Township Zoning Administrator.

**H. Nonconforming Signs:**

1. **Intent:** It is the intent of this Chapter to encourage eventual elimination of signs that as a result of the adoption of this Chapter become nonconforming, to administer this Chapter to realize the removal of illegal nonconforming signs, and to avoid any unreasonable invasion of established private property rights.
2. **Lawful Existing Signs:** Any sign lawfully existing at the time of the adoption of this Chapter which does not fully comply with all provisions shall be considered a legal nonconforming sign and may be permitted to remain as long as the sign is properly maintained and not detrimental to the health, safety and welfare of the community except as hereafter provided.
3. **Continuance:** A nonconforming sign shall not:

- a. Be expanded or changed to another nonconforming sign;
  - b. Be relocated.
  - c. Be structurally reconstructed so as to prolong the life of the sign; or so as to change the shape, size, type, placement, or design of the sign's structural parts; or so as to add illumination;
  - d. Be repaired or re-erected after being damaged if the repair or re-erection of the sign, within any 12-month period, would cost more than fifty (50%) percent of the cost of an identical new sign. If deemed necessary by the Zoning Administrator, the cost of an identical new sign shall be determined as the average of no less than three (3) cost estimates obtained from three (3) contractors.
  - e. Be altered unless the alteration or reconstruction is in compliance with the provisions of this Chapter. For the purpose of this Chapter only, the term "altered" or "reconstructed" shall not include normal maintenance; changing of surface sign space to a lesser or equal area; landscaping below the base line; or changing electrical wiring or devices, backgrounds, letters, figures, or characters.
4. **Termination of Business:** Nonconforming signs and sign structures shall be removed or made to conform within 60 days of the termination of the business or use to which they are accessory.
  5. **Change of Property:** If the owner of a sign or the premises on which a sign is located, changes the location of a building so that any sign on the premises is rendered nonconforming, such sign must be removed or made to conform to this Chapter.
  6. **Administration:** The Zoning Administrator shall keep complete records of all communications and other actions taken with respect to such nonconforming signs.

**SECTION 10.13 STORM WATER MANAGEMENT FOR DEVELOPMENTS**

All uses subject to site plan review shall have a storm water management plan approved by the Allegan County Drain Commissioner with the following exceptions: (1) Single family housing in the Agriculture-1 District, (2) uses which create less than 2000 square feet of impermeable surface, (3) single family development consisting of four or fewer single family dwellings on a private road.

**SECTION 10.14 MINIMUM REQUIREMENTS FOR PRIVATE ROADS**

- A. Private roads are permitted in all zoning districts when approved by the Monterey Township Board. This process shall require the review of a site plan in accordance with Section 10.24 and the application shall include six (6) copies of:
- a. A survey and written description, by a licensed surveyor, of the parent parcel/tract and the proposed development.
  - b. A site plan pursuant to the requirements of Section 10.24.
  - c. A detailed construction plan, including a diagram of the “Standard Cross Section and Layout”, proposed street upgrades, drainage, and location of all signs (dead end, stop, curve, road name, etc.). The proposed improvements plan shall be prepared by and sealed by a registered civil engineer.
  - d. A Private Road Maintenance Agreement containing a detailed description of how and by whom the road will be maintained, who will be financially responsible for enlarging, expanding, and upgrading the construction of the road to serve future parcels. It shall also include provision for the assessment of maintenance fees to be paid by benefitting property owners. It is the intent of this ordinance to require that each parcel owner be responsible for the costs and maintenance of the private road to include the entire length of said parcel’s frontage even if the initial construction is only required to the dwelling unit. After this document has been approved, it shall be recorded at the Allegan County Register of Deeds Office and a copy will be furnished to the Monterey Township Supervisor or his/her representative before the Final Private Road approval is given.
  - e. A written waiver of liability and “Indemnification Agreement” releasing Monterey Township and Allegan County from any liability for damages resulting from or related to the construction, use, maintenance, or lack of maintenance of the private road.
  - f. If the private road provides direct access to a county road, approval of the road connection must be supplied as approved by the Allegan County Road Commission.
  - g. The location of all newly created private roads and placement of required easements shall be consistent with approvals granted according to Section 10.24, Site Plan Review.
  - h. A completed Monterey Township Environmental Checklist.
  - i. Preliminary Private Road Permit-The Monterey Township Board may, after reviewing all afore-mentioned documents, approve the Site Plan, and issue a Preliminary Private Road Permit.

- B. Minimum Construction Standards-A private road authorized under this section shall have a right-of-way of at least sixty-six (66) feet in width, twenty (20) feet in improved roadbed width with at least three (3) feet of improved shoulder width on each side and adequate drainage ditches and necessary culverts on both sides to accumulate and contain surface waters from the road area. It shall further be improved with not less than six (6) inches of a processed and stabilized gravel base over eight (8) inches of compacted sand, have a grade of not more than seven percent, and if dead-ended, shall have a cul-de-sac with a radius of not less than fifty (50) feet of improved roadbed for the accommodation of emergency, commercial, or other vehicles. Easements will be required to extend completely through the property and end lots, and will be used for determining lot frontage requirements. Access to the public road system shall be approved by the Allegan County Road Commission.
- C. All private roads serving more than five (5) parcels shall have a two (2) inch thick bituminous paved surface of at least twenty (20) feet in width. Cul-de-sacs shall have a minimum radius of fifty (50) feet and a constructed paved surface. Private paved roads shall have a bituminous paved approach in accordance with the Allegan County Road Commission.
- D. Building setbacks shall be measured from the outside edge or boundary of the private road right-of-way.
- E. The layout of the private roads shall be compatible with the general pattern established by adjacent roads and streets. All intersections shall be at ninety degree (90) angles.
- F. Regulation Michigan State Highway stop signs shall be positioned and installed in accordance with the Michigan State Manual of Uniform Traffic Control Devices on all private roads where such roads intersect public roads.
- G. All private roads on record as of the date of the ordinance adoption are nonconforming uses of land. These roads may be used as is but may not be extended nor may any original lots be divided until the road is brought into compliance with all applicable requirements of Section 10.14.
- H. An easement shall be provided for gas, electric, and telephone utilities to each parcel.
- I. If accessibility is by a private road or easement, a document acceptable to the Township shall be recorded with the Allegan County Register of Deeds and filed with the Township Assessor or his/her designee specifying the method of private financing of all maintenance, improvements, and snow removal, the apportionment of these costs among those benefitted, and the right of the Township to assess such costs against those properties benefitted, (plus a 25 percent administrative fee), and to perform such improvements in the event of a failure of those benefitted to perform these duties for the health, safety, and general welfare of the area.

- J. All new private roads shall have standard Allegan County Road Commission name identification. The road name shall be approved by the Allegan County Road Commission.
- K. Final Private Road Permit-Upon completion of construction, the applicant will submit a certification sealed by a registered civil engineer that the road has been completed in accordance with the plans, specifications, and standards of the Preliminary Private Road Permit and which refers to his design number and date. Upon review and approval of the completed private road, the Monterey Township Board shall issue a Final Private Road Permit to the applicant.

**SECTION 10.15 GOVERNMENTAL IMPROVEMENTS**

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



**SECTION 10.16 HEALTH DEPARTMENT APPROVAL**

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

**SECTION 10.17 DUMPING RUBBISH AND WASTE MATTER AND WASTE WATER**

It shall be unlawful throughout the township to permit waste water from sinks or other similar drains, and sewage to drain onto land, yard, or other spaces from dwellings, business places of all types, and accessory buildings thereto, and to throw any such waste water and sewage onto said land; and it shall be unlawful for any person or organization to throw or dump empty cans, food containers, broken or whole bottles, crockery or utensils of any kind, automobile bodies or parts, old tires, or stoves, discarded furniture or household furnishings and utensils, junk, parts of machinery or appliance or any litter, flammable matter or substances, offal, ashes, clinkers, cinders, night soil, or any other similar waste objects, used concrete, bricks and other forms of masonry, either upon land owned, occupied or used by any individual or company or upon any land in any public place, or privately owned by another, unless such place has been designated as a public dumping ground by the township; and it shall be unlawful to drain any waste water, water containing waste or foreign substances or otherwise contaminated, or any sewage, raw or treated from any dwelling or place of business of any kind or from any accessory building or open ditch or by any pipes or by throwing or dumping the same into any ditch, creek or stream, of any kind in the township.

## **SECTION 10.18 SPECIAL USE PERMITS**

The application for a special use review shall be made on the forms and according to the guidelines provided by the Zoning Administrator. Each application shall be accompanied by the following;

1. A site plan which shall include all of the information required by Section 10.24
2. A letter describing the proposed use of the property.
3. Other information which the Planning Commission may reasonably deem necessary for adequate review.

The application shall be submitted by the owner having an interest in the land for which the special use permit is being sought, or by the owner's designated agent. The applicant or a designated representative shall be present at all scheduled review meetings or the consideration of the proposal may be tabled due to a lack of representation.

A. Notice. Upon receipt of a complete application, site plan and attachments, the Township shall send out a notice of the public hearing at which the special use application will be considered. The notice shall be given not less than fifteen (15) days prior to the date of the meeting. The notice shall be published in a newspaper that circulates in the Township; and such notice shall be sent by mail to the owners of property for which the approval is being considered; to all persons for whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to occupants of all structures within three hundred (300) feet of the property boundary regardless of the property is located in Monterey Township. The notice shall contain:

1. A description of the nature of the special use request under the specific section of this Ordinance;
2. A legal description or address and/or an approximate sketch of the property which is the subject of the request;
3. A statement of when and where the public hearing will be held to consider the request.
4. A statement as to when and where comments will be received concerning the request.

B. Planning Commission Determination. Following the public hearing, the Planning Commission shall review the application for the special use permit together with any findings and reports and recommendations of Township consultants and other reviewing

agencies. The Planning Commission is authorized to deny, approve, or approve with conditions requests made for special use approval. Such decision shall include the standards relied upon, finding of fact, conclusions, approval or denial and conditions if any, attached to the approval.

C. Standards for Granting Special Use Approval. Approval of a special use permit shall be based on the determination that the proposed use will comply with all the requirements of this Ordinance along with site plan review criteria set forth in Section 10.24. In addition, the following standards shall be met:

1. The location, scale, and intensity of the proposed use shall be compatible with the adjacent uses and zoning of the land;
2. The proposed use shall promote the use of land in a socially and economically desirable manner. The proposed use shall not adversely impact the social and economic well-being of those who will use the proposed land use or activity including residents, businesses, and landowners immediately adjacent or to the Township as a whole.
3. The proposed special use shall be compatible with and accordance with the general principles and future land use configuration of the Township Land Use Plan and shall promote the intent and purpose of this Ordinance.
4. The proposed use shall be designed, constructed, operated and maintained so as to assure long term compatibility with surrounding land uses. Consideration shall be given to:
  - a. The size, placement, and materials of construction of the proposed use in relation to surrounding uses;
  - b. The location and screening of vehicular circulation and parking areas in relation to surrounding development.
  - c. The location and height of buildings; the location, nature and height of walls and fences; and the nature and extent of landscaping.
  - d. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
  - e. The hours of operation of the proposed use. Approval of the a special use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.

5. The location of the proposed special use within the zoning district shall minimize the impact of the traffic generated by the proposed use. Consideration shall be given to the following:

- a. Proximity and access to major thoroughfares
- b. Estimated traffic generated by the proposed use
- c. Proximity and relation to intersections
- d. Required vehicular turning movements
- e. Location of and access to required off-street parking
- f. Provision for pedestrian traffic

6. The proposed special use shall be consistent with existing and future capabilities of public services and facilities affected by the proposed use.

7. The proposed use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall be located or designed so as to be detrimental to public health, safety, and welfare. Site layout shall be such that operations will not be objectionable to nearby residents by reason of noise, fumes, glare or flashing lights.

8. The proposed use shall be compatible with the natural environment.

D. Recording of Planning Commission Action. Each action taken with reference to a special use proposal shall be duly recorded in the minutes of the Planning Commission. The minutes shall record the findings of fact relative to each special use proposal, the grounds for action taken, and any conditions imposed in conjunction with the approval. All records of proceedings shall be kept on file and made available to the public.

E. Effective Duration of Special Use Approval. Special use approvals shall run with the owner/operator granted permission and may be issued for specified periods of time based on the impacts of the proposed use to surrounding property.

F. Amendments to Special Uses. When an application is received to expand or change the use, traffic pattern, or other elements of a special use, the application shall be subject to the same procedures followed for the original special use approval of land use. The denial of an application to amend an existing special use permit shall not nullify or cause to prohibit the applicant from continuing to operate in compliance/conformance within the specifications of the original (existing) special use permit approval.

G. Revocation of Special Use Approval. Approval of a special use permit and site plan may be revoked by the Township Board of Trustees if construction is not in conformance with the approved plans. In such case, the Zoning Administrator shall place the special use on the agenda of the Township Board for consideration and give written notice to the applicant at least five (5) days prior to the meeting. The applicant shall be given the opportunity to present information to the Township Board and answer questions. The Township Board may revoke approval if it finds that a violation exists and has not been remedied prior to the hearing.

**SECTION 10.19 MINIMUM REQUIREMENTS FOR DWELLING OUTSIDE OF MOBILE HOME PARKS**

All dwelling units located outside of mobile home parks shall comply with the following requirements:

- A. All dwelling units shall provide a minimum height between the floor and ceiling of seven and one half (7.5) feet; or if a mobile home, it shall meet the requirements of the United States Department of Housing and Urban Development Regulation, entitled Mobile Home Construction and Safety Standards, effective June 15, 1976, as amended.
- B. The minimum width of any single family dwelling unit shall be 14 feet.
- C. All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code adopted by the township or, if a mobile home, shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled “Mobile Home Construction and Safety Standards.”
- D. The wheels, pulling mechanism, and tongue of any mobile home shall be removed prior to placement on a foundation.
- E. All dwellings shall be connected to a sewer system and water supply system approved by the County Health Department.
- F. All dwellings shall provide steps or porch areas, attached to the foundation where there exists an elevation differential of more than one (1) foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
- G. All additions to dwellings shall meet all the requirements of this ordinance.
- H. Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan adequate to illustrate compliance with the requirements of this ordinance, shall be submitted to the building inspector. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile homes set forth in the section.
- I. All mobile homes shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development Regulations entitled “Mobile Home Construction and Safety Standards”: effective June 15, 1976 , as amended. All other dwellings shall meet the requirements of the construction code adopted by the township.

**SECTION 10.20 AESTHETIC COMPATIBILITY OF MOBILE HOMES**

The foregoing requirements of Section 10.19 notwithstanding, the placement and use of a mobile home in any zoning district within the township shall be aesthetically compatible in design and appearance with conventionally on-site constructed single-family dwellings, including, where appropriate, a front and rear or front and side exterior side door, and steps or porch areas where an elevation differential requires the same. At a minimum, the wheels and towing mechanisms of any mobile home located in the R-2 and R-3 Zoning Districts shall be removed, and the underside of chassis of such mobile home shall be completely enclosed and connected to the foundation, and said mobile home shall be placed upon the property in such a way that its appearance shall be compatible with single-family dwellings constructed on-site within said districts. In the AG and R-1 Zoning Districts, the wheels and towing mechanism of each mobile home shall be removed, and the underside or chassis of the mobile home shall either be completely enclosed and connected to the foundation as provided in the R-2 and R-3 Zoning Districts, or shall be enclosed with properly installed skirting which meets the minimum standards for skirting and installation thereof promulgated by the Michigan Mobile Home Commission.

The compatibility of design and appearance shall be determined in the first instance by the township zoning inspector upon review of the plans submitted for a particular dwelling subject to appeal by and aggrieved party to the Zoning Board of Appeals within a period of fifteen (15) days from the receipt of notice and said zoning inspector's decision.

#### **SECTION 10.21 MINIMUM WIDTH**

Each mobile home located in Monterey Township shall have an exterior measurement of not less than fourteen (14) feet in width.

#### **SECTION 10.22 ADDITIONS TO MOBILE HOMES**

All pre-manufactured rooms or other area additions to a mobile home shall comply with the standards of construction provided for herein for mobile homes, and shall be installed upon a permanent foundation as provided herein for mobile homes. Conventionally constructed additions to mobile homes shall comply with all respects with the applicable Building Codes.

#### **SECTION 10.23 CERTIFICATE OF APPROVAL**

No person shall occupy any mobile home as a dwelling within the township outside of a licensed mobile home park until a certificate of approval shall be issued by the building official or zoning administrator, which permit shall indicate satisfactory compliance with all requirements of the township zoning ordinance and building code.



**SECTION 10.24 SITE PLAN REVIEW AND APPROVAL**

The purpose of site plan review is to provide for consultation and cooperation between the land developer and Monterey Township in order to accomplish the developer's objectives in harmony with the existing and prospective use and development of existing properties. It shall further be the purpose of this section to insure that each proposed development and its components, appearance, and function is in compliance with this Ordinance, other Township ordinances, along with state and federal laws.

The site plan review procedures and standards of this section are intended to provide a consistent and uniform method of review for proposed development plans.

- A. **When a site plan is not required:** submission of a site plan is **not** required in the following circumstances.
  - 1. Single family and two family dwellings in residentially zoned areas
  - 2. Accessory buildings in residentially zoned areas
  - 3. Agricultural accessory buildings when located in agriculturally zoned areas.
  
- B. **When a site plan is required:** submission of a site plan is required for any of the following.
  - 1. Any development or use for which the submission of a site plan is required by the provisions of this Ordinance.
  - 2. Any proposal to change, replace with a different use, add a use on an existing site
  - 3. All condominium developments
  - 4. Wireless communication facilities
  - 5. Wind Energy Conversion Systems exceeding 100 foot in height.
  
- C. Site plan review not required: Uses with an approved site plan or existing buildings which propose a change constituting less than ten percent (10%) or less of the building floor area or ten percent (10%) of the required off-street parking spaces may be reviewed, approved, and administered by a person authorized to administer the zoning ordinance. Such review shall be duly reported to the Planning Commission and Township Board at the regularly scheduled meeting following the review.
  
- D. Sketch Plan Review: When, in the opinion of the acting Zoning Administrator, a proposed new development, the expansion of an existing development or remodeling project requires a minimum amount of information to insure compliance with the relevant

standards of this ordinance, an applicant may submit a sketch plan for review. All information on the sketch plan must be accurate and include:

1. Name and address of the applicant
2. Legal description of the property
3. Description of the project
4. Size and area of the site
5. Current zoning designation
6. All setbacks for any proposed structures
7. General storm water management
8. Number of off street parking spaces

Sketch plans are to be reviewed for approval by the Township Planning Commission and the Township Board in accordance with the standards contained in Section 10.24H.

- E. **Application process:** An application for site plan review shall be made to the Township by filing not less than seven (7) copies of an application form and a detailed site plan with the Township Clerk at least thirty (30) days in advance of a regularly scheduled Planning Commission meeting. Fees are required to be paid in accordance with the fee schedule as established by the Township Board.

The applications shall contain:

1. The applicant's name, address, and phone number
2. The address and parcel number of the property
3. A signed statement that the applicant is the owner of the property or has legal financial interest in the property
4. The name and address of owner(s) of record if the applicant is not the owner of record
5. Project description
6. The gross and net acreage of all lots or parcels in the project
7. Existing zoning classification, land uses, and structures on the subject lots or parcel(s)

8. The name and address of the developer, site engineer, architect, and/or land surveyor
  9. Project completion schedule/development phases
  10. If in the opinion of the Township such information is necessary, written statements relative to project impacts on existing infrastructure and on the natural environment of the site and of adjoining lands.
- F. **Site Plan Information:** Each submittal for site plan review shall be accompanied by a detailed site plan which shall consist of an accurate drawing showing the entire site and all land within three hundred (300) feet of the site. The scale of the site plan shall be clearly listed and be reasonable and appropriate for the size of the project. The following information shall be included on the site plan:
1. Name of the development and general location sketch
  2. Name , address, and phone number of owner(s), developer, site engineer, architect, and/or designer
  3. North arrow, scale, and date of original drawings and revisions
  4. The seal of one of the following professional registered in the State of Michigan:
    - a. Registered Architect
    - b. Registered Civil Engineer
    - c. Registered Landscape Architect
    - d. Registered Land Surveyor
  5. A legal description and address of the site
  6. The area of the site in square feet and acres excluding all existing and proposed rights-of-way
  7. The dimensions of all lots and subject properties, showing the relationship of the subject property to abutting properties, including lots across rights-of-way and easements. The boundaries of the subject property shall be clearly indicated on the site plan, differentiated from other contiguous property. If the parcel is part of a larger parcel, boundaries of total land holdings shall be indicated.
  8. Existing topographic elevations at two (2) foot intervals, including ground elevations of all existing buildings and structures and any unusual surface conditions

9. The location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains and wetlands
  10. Any site amenities and unique features
  11. Existing land uses and zoning classifications of the site and adjacent parcels
  12. All required minimum setbacks from existing or proposed rights-of-way and from adjacent parcels
  13. The location and dimensions (length, width, height) of all existing and proposed structures on the subject property and any existing structures within three hundred (300) feet of the subject property
  14. The location and width of all existing public roads, rights-of-way or private easements of record, abutting streets, and driveway locations to abutting streets
  15. Proposed finish grade of buildings, driveways, and parking lots
  16. Proposed utility service
  17. Proposed storm water management plan approved by the Allegan County Drain Commissioner unless the allowable exemptions apply
  18. Soil erosion and sedimentation control measures
  19. Buffering or landscaping plan, if required
  20. Notation of any variances which may have been or need to be secured
  21. The phasing of all development
  22. Approval of the local fire authority saying that the site plan provides sufficient access to buildings and structures by emergency vehicles
- G. Criteria for Granting Site Plan Approval:** Each site plan shall conform to all applicable provisions of the Ordinance. The following criteria shall be used by the Township Planning Commission and the Township Board when reviewing a site plan for a recommendation or an approval:
1. The elements of the site plan shall be harmoniously and efficiently designed in relation to the topography, size, and type of land, and the character of the adjacent properties and the proposed use.
  2. The site plan shall comply with the Zoning District requirements for lot size, setbacks and all other requirements set forth in this Ordinance.

3. The existing natural landscape shall be preserved in its natural state as much as possible by minimizing tree and soil removal and by topographic modifications that result in maximum harmony with adjacent properties.
  4. The site plan shall demonstrate how reasonable visual and sound privacy will be preserved.
  5. There shall be special attention given to proper site drainage. Appropriate measures shall be taken to insure that the site is properly drained and that the removal of all surface water will not adversely affect adjacent properties.
  6. All proposed streets and roads shall conform to Allegan County Road Commission design standards.
  7. The site plan shall demonstrate how the site served is by water and sewage facilities.
  8. Any use permitted in any zoning district must comply with all applicable county, state and federal regulations relating to health, pollution, noise, smoke, fugitive dust, vibration, noxious and odorous matter, glare, heat, erosion control, floodplains, wetlands, electromagnetic radiation, fire and explosive hazards, and toxic and hazardous materials. Site plan approval may be conditioned on the applicant receiving necessary county, state, and federal permits before final site plan approval or a building permit is granted.
- H. **Review and Approval:** Site plans shall be reviewed in accordance with the following procedures:
1. The Township Planning Commission may secure comments from the Allegan County Road Commission, Sheriff's Department, or any technical consultant it considers necessary to provide relevant information for a thorough review of the site plan. If the Township Board requests review of the site plan by the Township Planning Commission, the Planning Commission may avail itself of technical expertise as they deem necessary. If the Planning Commission does review the site plan, they shall transmit their recommendation to the Township Board within sixty (60) days of receipt of the site plan. Costs of expert consultants will be added to the application fee.
  2. The Township Board is hereby authorized to review and approve, with or without conditions, or to review and deny approval, all site plans submitted under this Ordinance. Guidelines for consideration of each case shall follow this Ordinance and other applicable ordinances. When the Township Board approves a site plan with conditions from the applicant, the applicant shall revise the site plan in accordance with the stated conditions clearly identifying the revisions along with a revision date.

3. Each action taken with reference to site plan review and approval shall be duly recorded in the minutes of the Monterey Township Board of Trustees.
4. When approval of a site plan is required, no building permit shall be issued until three (3) copies of the final site plan, which includes all of the stipulated conditions for approval, have been signed by the acting Zoning Administrator.

- I. **Issuance of a Building Permit after Site Plan Approval:** Complete construction plans including component phases, shall be submitted for review to the designated Building Inspector. Upon review and finding that the construction plans meet the requirements of site plan review and related construction code, the Building Inspector shall issue a building permit for the construction of the project.

Site plan approval shall be valid for one (1) year after the date of the approval by the Township Board. If the applicant does not obtain a building permit within one (1) year after the date of the approval, the site plan shall expire unless extended by a vote of Township Board. Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner and/or the applicant.

- J. **Modification of an Approved Site Plan:** Once a site plan has been approved, changes to an approved site plan shall require the re-submission and payment of the required application fee, unless it is determined that the changes involve ten percent (10%) or less change in proposed building floor area or off-street parking. Each approved modification shall have the signatures of the applicant and the Building Inspector as well as the date of the modification.

- K. **Conformity to an Approved Site Plan Required:** Following approval of a site plan by the Township Board the applicant shall construct the site improvements in complete conformity with the approved site plan.

Upon completion of the installation of the required improvements as shown on the approved site plan, the property owner/applicant shall submit two (2) copies of an “as built” site plan, certified by a registered engineer or architect to the Township Clerk.

**SECTION 10.25 EXOTIC, DANGEROUS, OR WILD ANIMALS – KEEPING OF**

It is the intent of this section to prohibit the keeping, selling, boarding, housing, possession or maintenance of dangerous animals (see definition) within the Township of Monterey, either temporarily or permanently, except under the conditions enumerated below:

- A. The keeping of an animal or animals is carried out by a veterinarian licensed in the State of Michigan for treatment of injuries, or to temporarily harbor an animal until permanent quarters are found.
- B. The keeping of the animals is a part of a special event such as a circus or carnival as appropriately licensed by the State of Michigan.
- C. Animals regulated by the Michigan Department of Natural Resources native to the State of Michigan.

**SECTION 10.26 NECESSARY TEMPORARY HOUSING**

Within the A-1, R-1 and R-2 Districts, the Planning Commission may authorize by special use, one (1) accessory building as a temporary dwelling for a physically handicapped or an elderly and health impaired immediate family member or members under the following conditions:

- A. The building must be at least seven hundred and twenty (720) square feet at the time of construction or manufacture
- B. The non-transferable permit must be renewed annually by the Zoning Administrator at a fee commensurate with the current fee for zoning permits
- C. The renewal permit shall include evidence that the terms of the Ordinance are being met.
- D. Time limits and conditions, if applied, shall be determined by the Planning Commission.
- E. Removal of the dwelling shall be accomplished within sixty (60) days of the expiration of the permit. Expiration shall occur when the time limit is met or when the circumstances of the occupants change so as to no longer require temporary housing.



**SECTION 10.27 OUTDOOR STORAGE OF RECREATIONAL AND OTHER VEHICLES, AND EQUIPMENT IN RESIDENTIAL AND AGRICULTURAL DISTRICTS**

The outdoor storage and parking of any airplane, antique or racing automobiles, boat, boat hoist or dock, float, trailer, trailer coach camping trailer, motorized home, vacant or unused mobile homes, dismountable travel equipment of the type adaptable to light duty trucks, or other equipment or vehicles of a similar nature (not including typical farm equipment) shall be prohibited for a period of greater than forty-eight (48) hours in all residential and agricultural districts, except where the following minimum conditions are met:

- A. All such vehicles or equipment shall be placed within a completely enclosed building or located behind the required front building line (rear or side yard) but no closer than five (5) feet from the rear or side property line.
- B. Storage or parking shall be limited to a lot or parcel upon which is located an inhabited dwelling unit and the vehicle or equipment is owned by the occupant. Vehicles may not be stored on vacant lots, parcels or property.
- C.. Trailer coaches, motor homes and other vehicles or equipment designed or adaptable for the sleeping purposes may be utilized for up to one hundred and eighty (180) days during the course of one (1) year for visitors. They shall otherwise remain unoccupied and shall not be connected to sanitary sewer facilities, water, or gas.
- D. Such vehicles so kept or stored shall be in good repair. Open storage or partially or disassembled component parts of said uses (recreational vehicles and equipment) is prohibited. This provision shall not pertain to farm implements, machinery and equipment utilized for permitted agricultural operations.
- E. The storage of vacant mobile homes in any district shall be prohibited; with the exception of approved and permitted sales and service facilities located in a designated commercial district.
- F.. No more than two (2) inoperable passenger vehicles may be kept on any lot or parcel in any zoning district. The vehicles shall be licensed to the owner of the property on which the vehicles are located. The vehicles must be stored in the rear or side yard of the parcel and screened by landscaping, privacy fencing or structures from adjacent properties and from view of any public road.

**SECTION 10.28 SWIMMINGPOOLS**

A. Permit Application. It shall be unlawful for any person to construct or maintain an outdoor swimming pool without first making application to the Zoning Administrator and obtaining a permit. Application for such permit shall show the name of the owner, a plot plan of the property showing the location of such a swimming pool, a detailed plan and specifications for such swimming pool and full information as to the type, height and location of the fence surrounding the pool and the number of gates.

B. Location. Outdoor swimming pools may be erected in the side or rear yard only, provided that they are located no closer than ten (10) feet from the side or rear lot lines. No such pool or part thereof shall be installed within twenty-five (25) feet of a side street.

C. Fencing. All below ground swimming pools shall have locking gates, removable ladders, or a fence of not less than (4) feet in height to restrict unauthorized access.

**SECTION 10.29 MOVING OF BUILDINGS**

Any building or structure (except agricultural buildings) that has been partially or wholly erected on any premises located within the Township shall not be moved to and placed upon any other premises in the Township until a building permit for such removal has been secured according to the requirements of this Ordinance. Any such building or structure shall fully conform to this Ordinance in the same manner as a new building or structure.

Before a permit may be issued for moving a building or structure, the Building Inspector shall inspect the same and determine if it is safe to move, whether or not it may be reconditioned to comply with the building code and other requirements for the use and occupancy for which it is to be used, and whether or not it will be of similar character with the buildings in the area where it is to be moved. In addition, clearances shall be obtained from all utility companies ensuring that utilities are discontinued and all facilities accounted for. Special inspection fees as determined by the Township or the County may be charged to cover costs of inspecting the old site and the new site of such building or structure. If these conditions can be complied with, a building permit shall be issued for the moving of such a building or structure.

**SECTION 10.30 ADULT REGULATED USES AND SEXUALLY ORIENTED BUSINESSES**

A. Authorization. In the preparation, enactment and enforcement of this section, it is recognized that there are some uses relating to sexual material which, because of their very nature, have serious operational characteristics that have a deleterious effect on residential, office, and commercial uses. Because certain forms of expression relating to sexual material have particular functional and inherent characteristics with a high potential of being injurious to the surround properties by depreciating the quality and value of such property, it is the intent of this section to provide a framework of reasonable regulatory standards which can be used for approving or disapproving the establishment of this type of use in a viable and accessible location where the adverse impact of their operations may be minimized.

However, it is recognized that these specific controlled uses have legitimate rights under the United States Constitution as well as locational needs similar to many other retail establishments. Special designation and regulation in the Light Industrial District is therefore necessary to ensure that adverse effects of such uses will not contribute to the degradation of adjacent parcels and the surrounding area. Furthermore, these controls are intended to provide commercially viable locations within the Township where these uses are considered more compatible and less deleterious.

B. Uses Specified. Uses subject to these controls as defined herein as "adult only businesses" are as follows:

1. Adult regulated businesses
2. Adult motion picture theaters
3. Adult book and video stores
4. Adult cabarets
5. Nude artist and photography studios

C. Site Location Principles. The following principles shall be utilized to evaluate the proposed location of any such use. These principles shall be applied by the Planning Commission as general guidelines to help assess the impact of such uses in the I-1 District.

1. No adult only business shall be located within one thousand (1000) feet, as measured from the outer most boundaries of the lot or parcel on which it is proposed, of a residential zoning district, church, monastery, temple, or similar place of worship, cemetery, school, public park or playground, non-commercial assembly facility, public office building, licensed day care facility or arcade.

2. An adult only business shall be located as a special use in the I-1 District
3. No adult only business shall be permitted within a one thousand (1000) foot radius of an existing adult only business. Measurements of the one thousand (1000) foot radius shall be made from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated.

**D. Site Development Requirements**

1. The site layout, setbacks, structures, function and overall appearance shall be compatible with adjacent uses and structures.
2. Windows, displays, signs, and decorative structural elements of buildings shall not include or convey examples of a sexual nature. All such displays and signs shall be in conformance with this Ordinance and shall be approved by the Planning Commission prior to their use.
3. All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the interior from any public or semi-public area as determined by the Planning Commission.
4. No loud speakers or sound equipment shall be used by an adult only business that projects sound outside of said business so that sound can be discerned by the public from public or semi-public areas.
5. An adult only business shall clearly post at the entrance to the business or that portion of the business utilized for adult only purposes, that minors are excluded.

**E. Use Regulations.**

1. No person shall reside in or permit a person to reside on the premises of an adult only business.
2. No person shall operate an adult only business unless there is conspicuously placed in a room where the business is conducted a notice indicating the process for all services performed therein. No person operating or working at such a place shall solicit or accept fees for services except for indicated on the notice.
3. The owners, operators or persons in charge of an adult only business shall not allow entrance into such building or any portion of a building used for such use to any minors as defined by MCL 722.51 et seq., as amended.
4. No adult only business shall possess or disseminate or permit persons therein to possess or disseminate on the premises any obscene materials as defined by MCL 752.361 et seq., as amended.

5. No person shall operate an adult personal service establishment without obtaining a current zoning and occupancy permit. Such licenses shall be issued by the Zoning Administrator to determine compliance with relevant ordinances of Monterey Township. Such license shall be subject to all regulations of federal, state, and local governments.

6. No person shall lease or sublease nor shall anyone become the lessee or sublessee of any property for the purposes of using the property for an adult entertainment business without the express written permission of the owner of the property upon having obtained the appropriate licenses and permits from Monterey Township, Allegan County, and the State of Michigan.

F. Conditions and Limitations. Prior to the granting of any permit provided herein, the Planning Commission or Township Board may impose any such reasonable conditions or limitations upon the location, construction, maintenance or operation of the establishment or regulated use, as may be its judgment, necessary for the protection of the public interest. Failure to follow such limitation or condition will act to immediately terminate any permit or license.

G. No application for an adult use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of order of denial, except on the grounds of new information not previously considered or proof of a change in conditions from the original request.

## **SECTION 10.31 CONDOMINIUM DEVELOPMENT STANDARDS**

### **A. Purpose and Scope**

1. Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant airspace within which a building or other improvements may be constructed by the condominium owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with contiguous and appurtenant common element, shall be considered to constitute a building site which is the equivalent of a "lot" for the purposes of this ordinance and other applicable laws, ordinances and regulations.

Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for the use by all owners of condominium units within the project. Subject to the district zoning provisions applicable to the project's location, any land use permitted by this Ordinance may be permitted in a site condominium project.

2. The purposed of this section is to ensure that the plans for development within Monterey Township proposed under the provisions of the Condominium Act. PA 59 of 1978 as amended shall be reviewed with the objective and intent of achieving the same characteristics as if the development and improvements herein were being proposed under the Subdivision Control Act PA 288 of 1967 as amended. It is further the intent of this Section to ensure that such development is in conformance with the requirements of this Ordinance as well as other applicable Township ordinances and state and federal regulations.

### **B. Site Condominium Review and Approval Procedures (Step 1 Review)**

An application for review and approval of a site condominium subdivision shall be in accordance with the following procedures:

1. Prior to the formal application for a site condominium development, the developer shall meet with the Planning Commission. The purpose of this meeting is to inform the Planning Commission of the applicant's intent to initiate a site condominium project. On or before the meeting the applicant shall submit the following to the Zoning Administrator who shall distribute the information to the Planning Commission.

a. A sketch drawn to scale indicating the general location and configuration of the property to be developed; the alignment of streets and building sites; and the relationship of the proposed project to adjacent streets and neighboring properties.

- b. A statement regarding the provision of sewer service and water supply
2. During the preliminary meeting, the Planning Commission, based on the information available, shall inform the applicant of the following:
  - a. General requirements of this section and other applicable provisions of this Ordinance.
  - b. Planned or anticipated sites of parks and recreation areas and other public uses.
  - c. Utility system capabilities
  - d. Planned or anticipated public improvements, including streets, utility systems and the like.
  - e. Street plans and potential problems relative to the natural features in the area including but not limited to floodplains, soil conditions, topography and ground water tables.
  - f. Additional information which will assist the applicant in proceeding in a reasonable and sound manner toward the final approval of the project.
3. This review is intended for information purposes only and does not constitute a binding commitment on the part of the Township. Neither does it imply tentative approval of any proposed project. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer the property.
4. Following preliminary review, the applicant shall submit the site condominium plans to the following agencies for their approval.
  - a. Michigan Department of Natural Resources and Environment
  - b. Allegan County Drain Commissioner
  - c. Allegan County Road Commission
  - d. Other appropriate state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's constructions phases.

C. Site Condominium Review and Approval Procedures (Step II Review)

1. An application for preliminary review of a site condominium project shall be made to the Zoning Administrator along with the appropriate fees as required by



Township Board resolution. The application shall, at a minimum, contain the following information:

- a. Application for certificates of zoning compliance which upon issuance shall ensure that the project as proposed is capable of being developed in conformity with the standards and regulations applicable to the zoning district in which the project is located, subject to the customary procedures applicable to the Township approvals of individual uses on individual building sites.
- b. The applicant's name, address, and phone number.
- c. Proof that the applicant is the owner of the property or has legal or financial interest in the property such as a purchase agreement.
- d. The name, address, and phone number of the owner(s) of record, if different from that of the applicant.
- e. The legal description, address and tax parcel number of the property
- f. Project description, including the number of structures, dwelling units, square feet of building sites, open spaces, and estimated inhabitants, phasing, etc.
- g. Gross and net size of the parcel in acres.
- h. Written comments and/or approvals from the above list of agencies resulting from their review of the site condominium plans, as applicable.
- i. A copy of the proposed deed restrictions or covenants for the site condominium subdivision.
- j. A copy of any preliminary agreements which may be required before final plan approval.
- k. A copy of the proposed master deed of the project and the supportive information which is intended to be recorded with the Register of Deeds as required by state law.

2. The applicant shall provide at least ten (10) copies of the preliminary site condominium project plan and additional copies, if required by the Zoning Administrator. The plans at the time of their submittal shall contain the information required for preliminary site condominium plans as required by this Ordinance.

3. The application and plans shall be submitted at least thirty (30) days before the next regularly scheduled meeting of the Planning Commission.
4. Upon receipt of the preliminary site condominium project plans, the Zoning Administrator shall forward one (1) copy to each member of the Planning Commission and outside consultants (if necessary) for consideration at the next regularly scheduled meeting of the Planning Commission.
5. The Zoning Administrator shall notify by mail, all members of the Planning Commission that a meeting will take place at a specified time concerning the property proposed for the site condominium project. At this meeting or a subsequent meeting, a public hearing shall be held. Notice of said hearing shall be given at least fifteen (15) days prior to the hearing by one (1) publication in a newspaper of general circulation in the Township and by mail to each public utility company within the geographical sections or divisions of the Township affected by the proposed development. Notices of said hearing shall also be sent, not less than fifteen (15) days prior to the hearing to the applicant and to all property owners within three hundred (300) feet of the subject property. The Zoning Administrator shall give notices of the meeting as required by the Open Meetings Act. In reviewing the preliminary plan, the Planning Commission shall give particular attention to all information required to accompany the submission, in particular the deed restrictions and covenants in an effort to determine that they are adequate to ensure ultimate completion of the project in accordance to the proposed project plan. If the preliminary plan meets the requirements of this Ordinance and all other local, state, county, and federal regulations, the Planning Commission shall grant it preliminary approval.

If the plan does not meet the requirements of the Ordinance, the Planning Commission shall:

- a. Recommend denial of the preliminary plan, setting forth the reasons in writing, or
- b. Recommend granting of preliminary plan approval upon completion of the revisions noted.

D. Setbacks and Boundaries. The setback requirements for the condominium buildings shall be determined as follows:

1. Single Family Units
  - a. The front yard setback shall be one half (1/2) of the approved or recorded street ROW, plus the current setback of the respective zoning district in which the project is located.

b. The side yard setbacks shall be twice the minimum required within the zoning district. The distance from the unit to the limit of development shall meet the minimum required side yard setback within the zoning district.

c. The rear yard setback between the rear of two (2) units shall be twice the minimum rear yard setback of the zoning district. The distance from the rear of the unit to the limits of the development shall meet the minimum rear yard setback of the zoning district.

2. Multiple family units shall meet the standards of the Medium Density Residential District (R-3).

3. The relocation of boundaries as defined in Section 148 of the Michigan Condominium Act, shall conform to all setback requirements of this Section, of the district in which the project is located, shall be submitted to the Planning Commission for review and approval, and these requirements shall be made part of the by-laws and recorded as part of the master deed.

E. Common Elements. After construction of a condominium unit, the undeveloped area of a unit shall become a common element.

F. Encroachment. A condominium project shall not be constructed in a manner that intentionally creates an encroachment.

G. Subdivision of Unit Sites. Subdivision of condominium unit sites is permitted following review and approval, contingent upon the submission of an amended master deed to determine the effect of the subdivision on the conditions of zoning or development plan approval, and shall be made part of the by-laws and recorded as part of the master deed.

H. Conformance with Subdivision Regulations. All condominium project plans shall conform to the plan preparation requirements, design layout, and improvement standards as established within this Ordinance or with the Township's Code of Ordinances.

I. Water and Waste Water. The condominium project shall comply with and meet all federal, state, and county standards for a fresh water system and waste water disposal.

J. Expansion and Conversion. Prior to expansion or conversion of a condominium project to additional land and new phases, it must be reviewed and approved by the Planning Commission.

K. Master Deed. The project developer shall furnish the Township with one (1) copy of the proposed consolidated master deed, one (1) copy of the by-laws, and two (2) copies of the proposed plans. The proposed plans shall be reviewed for compliance with this

Ordinance to ensure that an assessment mechanism has been included to guarantee adequate maintenance of common elements.

L.As Built Plans and Occupancy. Submission of an as-built plan of a condominium unit is required prior to occupancy. The Building Inspector may allow occupancy of the project before all improvements are installed provided that an escrow is submitted to the Township, sufficient in amount and type to cover the cost of installation of the improvements before the expiration of the temporary occupancy permit without expense to the Township. The amount and form of the escrow shall be determined by the Township Planning Commission. Fees for these reviews shall be established by the Township Board.

M. Final By-laws, Consolidated Master Deed, and Site Plan. Upon approval of the development the applicant shall furnish the Township a copy of the by-laws and the consolidated master deed. The development plan shall be provided on a mylar sheet 24'x36' and in electronic format.

N. Compliance with other Statutes and Ordinances. All condominium projects shall comply with pertinent federal, state, and local laws, statutes and ordinances.

**SECTION 10.32 WIRELESS COMMUNICATION FACILITY REQUIREMENTS.**

A. **Intent.** Regulation of commercial wireless communication service towers is necessary to protect the public health, safety and welfare while meeting the communication needs of the public. The intent of the Ordinance is to minimize adverse visual effects of towers and to avoid interference with adjacent property while adequately serving the community.

B. **Permitted as Principal Uses.** In the following circumstances, a new wireless communication facility shall be a principal permitted use, or a permitted accessory use, subject to site plan approval and also subject to the conditions set forth in subparagraph (D) below:

1. Attached wireless communication facilities within all districts where the existing structure is not, in the discretion of the Planning Commission, proposed to be either materially altered or materially changed;
2. Colocation of an attached wireless communication facility which has been previously approved for collocation by the Planning Commission;
3. Wireless communication facilities attached to a utility pole located within a right-of-way, where the existing pole is not modified to materially alter the structure and/or result in an impairment of sight lines of other safety interests; or
4. Wireless communication facilities with monopole support structures of no more than two-hundred-fifty (250) feet in height within the I-1 and C-1 zoning districts.

C. **Permitted as Special Land Uses.** Wireless communication facilities with monopole tower support of 250 ft. or less in the AG District shall be permitted as a special land use. Wireless communication facilities with monopole or lattice tower support structures with a height of greater than two-hundred-fifty (250) feet shall be permitted as special land uses or special accessory uses only in the C-1 and I-1 zoning district, subject to the standards of Section 10.18, Special Land Uses, except that they shall not be located within five-hundred (500) feet of any R-1 or R-2 zoning district, or within a distance equal to the height of the support structure from the right-of-way line of any interstate or limited-access highway or other major thoroughfare. If located on the same parcel with another permitted use, such facilities and any other structures connected therewith shall not be located in a front yard.

D. **Permitted as Special Land Uses in Other Districts.**

If an applicant can demonstrate to the satisfaction of the Planning Commission that a location permitted in subparagraphs (a) and (b) above cannot reasonably meet the coverage and/or capacity needs of the applicant, and the applicant can demonstrate that it has reasonably exhausted all efforts to locate its facility in accordance with subparagraphs (a) or (b) above, a wireless communication facility may be permitted as a special land use or a special accessory use within all other zoning districts, subject to the standards of Section 10.18 Special Land Uses, and further subject to the following conditions:

1. Such wireless communication facilities shall be located on a priority basis only on the following sites: a) governmentally owned sites; b) religious or other institutional sites; c) public or private school sites; or d) public parks and other large permanent open space areas when compatible.
2. Wireless communication support structures in such locations shall be of an alternative or stealth design such as incorporation into a steeple, water tower, bell tower, or other form which is compatible with the existing character of the proposed site, the adjacent neighborhoods, and the general area, as approved by the Planning Commission.

**E. Required Standards for Wireless communication Facilities in All Districts.**

1. Site Plan. A site plan prepared in accordance with Section 10.24, Site Plan Review, also showing as-built drawing for all proposed attached wireless communication facilities and/or wireless communication support structures.
2. Demonstration of Need. Demonstration of the need for the proposed wireless communication support structure due to a minimum of one of the following:
  - a. Proximity to an interstate of limited-access highway or major thoroughfare.
  - b. Proximity to areas of population concentration.
  - c. Proximity to commercial or industrial business centers.
  - d. Avoidance of signal interference due to buildings, woodlands, topography, or other obstructions.
  - e. Other specific reasons.
3. Service Area and Power. As applicable, a description of the planned, proposed, or existing service area of the facility, and wireless communication support structure height and type, and signal power expressed in effective radiated power (ERP) upon which the service area has been planned.
4. Map of Other Facilities Nearby. A map showing existing or proposed wireless communication facilities within Monterey Township *and* Allegan County, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the Township, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility. If the information is on file with the Township, the applicant shall update as needed. A written request for confidentiality must be prominently stated by the applicant.
5. Data on Other Facilities Nearby. For each location identified by the applicant/provider, the application shall include the following data, if known, with the applicant/provider expected to exercise reasonable diligence to obtain

information: The structural capacity and whether it can accommodate the applicant's facility, as proposed or modified.

- i. Evidence of property owner approvals.
  - ii. Whether the location could be used by the applicant/provider for placement of its attached wireless communication facility; if the location cannot be used, a disclosure of the technological considerations involved, with specific reference to how use of the location would prohibit the applicant/provider from providing services.
6. Fall Zone Certification. To determine the required setbacks, a State of Michigan registered engineer shall submit a determination and certification regarding the manner in which the proposed structure will fall. The fall zone or collapse distance as cited in the certification shall therefore be the minimum setback required. However, in the absence of an engineer's certification, the minimum setback shall be equal to the total height of the tower. Furthermore, in no case shall the minimum setback from a property line be less the seventy-five (75) feet.
  7. Description of Security for Removal. A financial security (Performance Guarantee) may be required for the wireless communication support structure to ensure removal and maintenance, in accordance with this Section. The security shall be required at the discretion of the Planning Commission and shall be in the form of a performance bond or dedicated escrow account placed with the Township for coverage of state purposes. The security shall be a promise of the applicant and owner of the property to timely remove the facility as required, with the provision that the applicant and owner shall pay costs and attorney's fees incurred by Monterey Township in securing removal.
  8. Data on FCC and FAA Approval. An application for a wireless communications installation shall have been first submitted for review and have been approved for such facility before the Federal Communications Commission, Michigan Aeronautics commission and Federal Aviation Administration detailing technical parameters authorization for the facility shall be submitted to the Township as part of the Township's required application packet. Approved facilities shall be subject to all FAA, MAC, and FCC requirements for placement, maintenance, and operation.
  9. All wireless communication facilities shall be located on a minimum of a one-half (1/2) acre parcel and shall have direct or deeded access to a public road right-of-way. Verification of said access shall be provided upon application for approval.
  10. All existing vegetation shall be shown on the submitted site plan and shall be preserved during and after installation to the maximum extent possible.

Furthermore, additional landscaping shall be required in accordance with the provisions of the Ordinance for the district in which it is located.

11. All wireless communication sites shall be fenced with appropriate material with a minimum height of six (6) foot and a maximum height of eight (8) feet. All support structures, wires, and accessory buildings shall be located within the fenced area. The use of barbed wire, electric current or charge of electricity is strictly prohibited.
12. Compatibility of support Structures. Wireless communication support structures shall not be injurious to the neighborhood or detrimental to the public safety and welfare. Support Structures shall be harmonious with the surrounding areas, and aesthetically and architecturally compatible with the natural environment. In addition, all structures shall be equipped with an anti-climbing device to prevent unauthorized access.
13. Maximum Height. The maximum height of wireless communication support structures shall be the lesser of: a) two-hundred-fifty (250) feet; or b) the minimum height demonstrated to be necessary by the applicant; or c) such lower heights as required and approved by the Federal Aviation Administration. The applicant shall demonstrate a justification for the height and provide an evaluation of alternative designs which might result in lower heights. Accessory buildings shall be limited to the maximum height for accessory structures within respective zoning districts.
14. Setback from Non-Residential Districts. Wireless communication support structures abutting any lot zoned for other than residential purposes shall have a minimum setback in accordance with the required setbacks for the principal buildings for the zoning district in which the support structure is located. But in no case shall the required setback be less than seventy-five (75) feet.
15. Variances. The Zoning Board of Appeals may grant variances for the setback of a wireless communication support structure to accommodate a change that would reduce its visual impact or to meet the required standards of Section 10.32 E 20, Colocation. The Zoning Board of Appeals may also grant variances for the height of a support structure of up to fifty (50) feet only in cases where a variance would permit additional colocations.
16. Compatibility of Accessory Structures. Wireless communication facilities proposed on the roof of a building with an equipment enclosure shall be architecturally compatible with the principal building upon which it is located. The equipment enclosure may be located within the principal building or may be an accessory building, provided the accessory building conforms with all district requirements for accessory buildings and is constructed of the same or compatible building material as the principal building.



17. Appearance of Support Structures. The color of wireless communication support structures and all accessory buildings shall minimize distraction, reduce visibility, maximize aesthetics, and ensure compatibility with its surroundings. The Applicant shall be responsible for the maintenance of the wireless communication facility in a neat and orderly condition, as well as maintaining the safety of the site and structural integrity of any structures.
18. Federal and State Requirements. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted on the site plan. Structures shall be subject to any State and Federal regulations concerning nonionizing electromagnetic radiation. Furthermore, if more restrictive State or Federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard or the approval and permit for the structure shall be subject to revocation by the Township. The cost for testing and verification of compliance shall be borne by the operator of the antenna.
19. Lighting. Lighting on a wireless communication facility shall be prohibited unless otherwise required by the Federal Aviation administration or Michigan aeronautics Commission. The applicant shall propose a height reduction to eliminate the need for lighting, or shall submit detailed technical data demonstrating the need for the requested height including an analysis demonstrating that other sites are unavailable or inadequate for their purposes.
20. Colocation. All wireless communication support structures shall accommodate no more than six (6) attached wireless communication facilities. Support Structures shall allow for future rearrangement of attached wireless communication facilities to accept other attached facilities mounted at varying heights.
  - a. When Colocation is Not “Feasible.” Wireless communication support structures shall not be approved unless the applicant documents that its attached wireless communication facilities cannot be feasibly co-located or accommodated on an existing support structure or other existing structure due to one or more of the following reasons:
    - (i) The planned equipment would exceed the structural capacity of the existing support structure or other structure, as documented by licensed engineer, and the existing support structure or other structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
    - (ii) The planned equipment would cause interference affecting the function of other equipment on the existing support structure or other structure as documented by a licensed

engineer, and the interference cannot be prevented at a reasonable cost.

- (iii) Support structures and other structures within the search radius cannot accommodate the planned equipment at a height necessary for the coverage area and capacity needs to reasonably function as documented by a qualified and licensed professional engineer.
- (iv) Other unforeseen reasons that make it not feasible to locate the planned communications equipment upon an existing support structure or other structure.

b. **Determining Feasibility of Colocation.** Colocation shall be deemed to be “feasible” when all of the following are met:

- i. The applicant/provider will pay market rent or other market compensation for collocation.
- ii. The site is able to provide structural support, considering reasonable modification or replacement of facility.
- iii. The colocation being considered is technically reasonable and will not result in unreasonable interference, given appropriate physical adjustments.
- iv. The height of the structure necessary for collocation will not be increased beyond maximum height limits.

c. **Refusal to Permit Colocation.** If a party who owns or otherwise controls a wireless communication support structure shall fail or refuse to alter a structure to accommodate a feasible collocation, such facility shall thereafter be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.

d. **Refusal to Permit Colocation Constitutes Violation.** If a party who owns or otherwise controls a facility shall fail or refuse to permit a feasible collocation, and this requires the construction and/or use of a new wireless communication support structure, the party failing or refusing to permit a feasible collocation shall be determined to be in direct violation and contradiction of the policy, intent, and purpose of this Section of the Zoning Ordinance. Consequently such party or its agent(s) shall take responsibility for the violation, and shall be prohibited from receiving approval for a new support structure within Monterey Township for a period of five (5) years from the date of the failure

or refusal to permit collocation. Such a party may seek and obtain a variance from the Zoning Board of Appeals if, and to the limited extent, the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication service.

- e. Offer of Collocation Required. An application for a new wireless communication support structure shall include a letter from the applicant to all potential users offering an opportunity for collocation. The list of potential users shall be provided by Monterey Township based on those entities who have requested approval of a wireless communication facility, current FCC license holders, and other entities requesting to be on the list. If, during a period of thirty (30) days after the notice letters are sent to potential users, a user requests, in writing, to collocate on the new support structure, the applicant shall accommodate the request(s), unless collocation is not feasible based on the criteria of this Section.
21. Removal. When a wireless communications facility has not been used for sixty (60) days, the party or its agent(s) shall notify the Township in writing of its discontinued use and shall initiate removal of all or parts of the wireless communications facility by the users and owners of the facility and owners of the property within ninety (90) days of notifying the Township. The removal of antennae or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use. The situation(s) in which removal of a wireless communications facility is required may be applied and limited to a portion of the facility.
- a. Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the wireless communications facility shall immediately apply for and secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the condition which existed prior to the construction of the facility.
  - b. If the required removal of the wireless communications facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice sent by certified mail, Monterey Township may remove or secure the removal of the facility or required portions thereof, with its actual costs and reasonable administrative charges to be drawn or collected from the security posted at the

time application was made for establishing the facility or, if necessary, through appropriate judicial remedies.

22. Radio Frequency Emission Standards. Wireless communication facilities shall comply with applicable Federal and State standards relative to electromagnetic fields and the environmental effects of radio frequency emissions.

23. Effect of Approval.

- a. Subject to subparagraph (b) below, final approval for a wireless communication support structure shall be effective for a period of six (6) months.
- b. If construction of a wireless communication support structure is commenced within two (2) miles of the land upon which a facility has been approved, but upon which construction has not been commenced during the six (6) month period of effectiveness, the approval for the support structure that has not been commenced shall be void thirty (30) days following written notice from Monterey Township of the commencement of the other support structure. Such voiding shall apply unless the applicant granted approval of the support structure which has not been commenced demonstrates that it would not be feasible to collocate on the support structure that has been newly commenced.

## **SECTION 10.33 MOBILE HOME PARKS**

### **A. Statement of Intent.**

This section is intended to provide for the location and regulation of manufactured housing parks as an affordable housing alternative where appropriate and consistent with the general character of Monterey Township. It is intended that manufactured housing parks be provided with necessary community services in a setting that provides a high quality of life for its residents. These districts should be located in areas where they will be compatible with adjacent land uses. Accordingly, manufactured housing parks shall be located in accordance with the following criteria:

1. In areas that are designated for manufactured housing parks as outlined in the Monterey Township Master Plan.
2. On sites adjacent to existing manufactured housing parks and parcels zoned R-4 zoning classification.
3. On sites with direct vehicular access to a public thoroughfare or collector road.
4. In areas where sanitary sewer and potable water supply (either public or private systems) is available with sufficient capacity to serve the residents and to provide fire protection capabilities. Furthermore, the location of a manufactured housing park shall not result in exceeding the capacity or result in the diminished service of proper functioning community facilities and utility systems, including but not limited to the following: roads, sanitary sewers, water, storm drainage, police and fire protection, and the public educational system.
5. On sites outside of a designated floodway.

The regulations established by state law (Michigan Public Act 96 of 1987, as amended) and the Manufactured Housing commission Rules govern all manufactured housing parks. When regulations in this Section exceed the state law of the Manufactured Housing Commission Rules they are intended to insure that manufactured housing parks meet the development and site plan standards established by this Section for other comparable residential development and to promote the health, safety and welfare of the Township's residents.

These specific standards reflect the nature of Monterey Township in contrast with some other areas of Michigan where the universal ruled of the Manufactured Housing Commission may be appropriate. These standards encourage development which compliments and protects the investment on adjacent properties, and promotes preservation of important natural features.

Since the characteristics and impacts of a manufactured housing park typically simulate those of multiple-family residential developments, and because they typically are served

by private streets and utility systems which interrupt and intercept the continuity of the local street and utility systems, manufactured housing parks are not considered compatible with other types of single-family neighborhoods. Therefore, manufactured housing parks are intended to serve as a transitional use between residential and nonresidential districts, similar to the multiple family districts.

**B. Development Standards and Requirements.**

1. Preliminary Plan Review. Pursuant to Section 11 of Michigan Public Act 96 of 1987, as amended, a preliminary plan shall be submitted to the Township for review by the Planning Commission. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans.

In preparing the preliminary plan and when reviewing the plan, the applicant and Planning Commission shall follow the procedures and requirements in Chapter 12, site Plan Review, where applicable, except where said procedures and requirements are superseded by requirements in Public Act 96 of 1987, as amended, or the Manufacture Housing Commission Rules. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Planning commission shall take action on the preliminary plan within sixty (60) days after the Township officially receives the plan.

Applicants may request to meet with Township officials, including any consultants designated by the Township Board of Trustees, to preliminarily review applications prior to filing. Such pre-filing conferences are intended to assist the applicant and facilitate the future review and approval of the application. However, no suggestions, recommendations, or other comments made by Township officials, staff or consultants at such conferences shall constitute approval of any application.

2. Minimum Requirements. Manufactured housing parks shall be subject to all the rules and requirements as established and regulated by Michigan law including, by the way of example, Act 96 of 1987, as amended, and the Manufactured Housing Commission Rules and, in addition, shall satisfy the following minimum requirements.
3. General Authority. Manufactured housing parks shall be constructed, licensed, operated, and managed in accordance with the provisions of the Manufactured Housing Commission Act, Act 96 of 1987, and subsequently adopted rules and regulations governing manufactured housing parks. Application for permit to construct a manufactured housing park shall be submitted to the Michigan Bureau of Construction codes. The Department of Consumer and Industry Services is the agency charged with licensing of manufactured housing parks. Preparation of the

application, support data, and local agency review of the above mention materials shall conform to the requirements of Act 96.

4. Codes. All structures and utilities to be constructed, altered, or repaired in a manufactured housing park shall comply with all applicable codes of the Township, the State of Michigan, the U.S. Department of Housing and Urban Development, and the Manufactured Housing Commission, including building electrical, plumbing, liquefied petroleum gases and similar codes, and shall require permits issued therefore by the appropriate offices. However, a manufactured housing unit built prior to June 15, 1976 which otherwise meets HUD certification requirements and standards for construction shall be permitted. All Structures and improvements to be constructed or made under the State of Michigan Building Code shall have a building permit issued by the Monterey Township Building Inspector prior to construction.
5. Parcel Size. The minimum parcel size for manufactured housing parks shall be fifteen (15) acres.
6. Site Size. The manufactured housing parks shall be developed with sites having a minimum size of five-thousand-five-hundred (5,500) square feet per manufactured housing unit. This square foot minimum for any one site may be reduced twenty percent (20%) provided that the individual site shall be equal to at least four-thousand-four-hundred (4,400) square feet. For each square foot of land gained through the reduction of site area below the required standard, at least an equal amount of land shall be dedicated as open space for the collective use and enjoyment of all manufactured housing park residents. This open space shall be in addition to the open space required by this Section and under R125.1946, Rule 46 and R125.1941 and R125.1944, Rules 941 and 944 of the Michigan Administrative Code. However, in no case shall the open space and distance requirements be less than that required under R125.1946, Rule 46 and R125.1941 and R125.1944, Rules 941 and 944 of the Michigan Administrative Code.
7. Dimensional Requirements. Manufactured housing units shall comply with the following minimum distances and setbacks:
  - a. Twenty (20) feet from any part of adjacent manufactured housing units.
  - b. Ten (10) feet from any on-site parking space of an adjacent manufactured housing unit site.
  - c. Ten (10) feet from any accessory attached or detached structure of an adjacent manufactured housing unit.
  - d. Fifty (50) feet from any permanent building.

- e. One hundred (100) feet from any baseball, softball, or similar recreational field.
  - f. Fifteen (15) feet from the edge of an internal road.
  - g. Seven (7) feet from any parking bay.
  - h. Seven (7) feet from a common pedestrian walkway.
  - i. All manufactured housing units shall be set back not less than twenty-five (25) feet from any park boundary line, including the existing and future rights-of-way lines of abutting streets and highways. Accessory buildings shall meet the setback requirements as established by this Ordinance for residential districts.
  - j. Forty (40) feet from the edge of any railroad right-of-way.
8. Building Height. Buildings in the MHP district shall not exceed two and one-half (2 ½) stories or Thirty-five (35) feet, except that storage sheds shall not exceed fifteen (15) feet in height.
9. Roads. Roads shall satisfy the minimum dimensional, design, and construction requirements as set forth in the Manufactured Housing Commission Rules except as follows:
- a. Two-way streets shall have a minimum width of twenty-one (21) feet where no parallel parking is permitted, thirty-one (31) feet where parallel parking is permitted on one side only, and forty-one (41) feet where parallel parking permitted on both sides of the street. Roads not permitting parking shall be clearly marked or signed.
  - b. One-way streets shall have a minimum width of thirteen (13) feet where no parallel parking is permitted, twenty-three (23) feet where parallel parking is permitted on one side only, and thirty-three (33) feet where parallel parking is permitted on both sides of the street. Roads not permitting parking shall be clearly marked or signed.
  - c. The alignment and gradient of a road shall be adapted to the topography and shall be graded for its full width to drain surface water. Internal road gradient and drainage construction phase features shall meet the requirements of the Manufactured Housing Commission Rule 908 and Rule 47 of the Michigan Department of Environmental quality standards.
  - d. Cul-de-sacs, where proposed, shall have a minimum radius of thirty (30) feet (60 ft. in diameter). Maximum cul-de-sac length shall be one-thousand (1,000) feet, provided no more than thirty-five (35) units may be



served by a single means of access. A dead end road shall terminate with an adequate turning area. A blunt-end road is prohibited.

- e. Adequate sight distance shall be provided at all intersections.
- f. The main entrance to the park shall have access to a public thoroughfare or shall be connected to a paved public collector or arterial road by a permanent easement which shall be recorded by the developers. Sole access to the park via an alley is prohibited.
- g. All roads shall be clearly marked with appropriate identification and traffic control signs.
- h. All roads shall be hard-surfaced and may be constructed with curbs and gutters.

10. Parking.

- a. All manufactured housing sites shall be provided with two (2) parking spaces per Manufactured Housing Commission Rules 925 and 926.
- b. In addition, a minimum of one (1) parking space for every three (3) manufactured sites shall be provided for visitor parking located convenient to the area served.
- c. Off-street parking in accordance with Chapter 11 of this Ordinance shall be provided in conjunction with any community buildings, recreational facilities or office/maintenance buildings located within the manufactured home park.
- d. No unlicensed or inoperable vehicle of any type shall be parked in this district at any time except within a covered building.
- e. Common areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided in a manufactured housing park, but shall be limited to use only by residents of the manufactured housing parks. The location of such storage areas shall be shown on the site plan and shall be prohibited on manufactured housing sites and in designated open space areas. No part of any such storage area shall be located in any yard required on the perimeter of the manufactured housing parks. Such storage shall be surfaced with gravel, asphalt, or similar substance and shall be screened from view from adjacent residential properties with an opaque six (6) foot wooden fence, six (6) foot masonry wall with landscaping, or landscaped greenbelt. If a landscaped greenbelt is used, it shall consist of closely-spaced evergreen plantings (that is, no farther than fifteen (15) feet apart) which can be reasonably expected for form a

complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Common laundry drying areas, trash collection stations, surface mounted transformers, and similar equipment and facilities shall also be screened from view by plant material and/or man-made screens.

11. Sidewalks. Concrete sidewalks having a minimum width of three (3) feet shall be provided on at least one side of collector roads in the manufactured housing park. In addition, a five (5) foot wide concrete sidewalk shall be constructed along the public road(s) on which the manufactured housing park fronts. Such sidewalk shall be located within the road right-of-way, one foot off of the right-of-way line.

12. Accessory Buildings and Facilities.

- a. Accessory buildings and structures, including park management offices and public works facilities, storage buildings, laundry facilities, recreation or community facilities, and other accessory facilities, shall be designed and operated for use by residents of the park only and shall be shown on the submitted Preliminary Plan for approval.
- b. Site-built structures within a manufactured housing park shall be constructed in compliance with the State of Michigan Building Codes and shall require all applicable permits. Any addition to a manufactured housing unit that is not certified as meeting the standards of the U.S. Department of Housing and Urban Development for manufactured housing shall comply with the State of Michigan Building Codes.
- c. No personal property shall be stored outside or under any manufactured home. Storage structures (e.g. sheds, garages, etc.) may be used to store personal property on site. The installation of any such shed or garage shall require an Allegan County building permit. Storage sheds need not be supplied by the owner or operator of the manufactured housing park.
- d. Travel trailers or recreational vehicles shall not be occupied as living quarters in all new and future manufactured housing developments.
- e. Towing mechanisms, including tires, shall be removed from all homes at the time of installation and stored so as not to be visible from the exterior of the community. Towing mechanisms, including axles, may, however, be stored under manufactured homes within a community.

13. Open Space. Open space shall be provided in any manufactured housing park containing fifty (50) or more manufactured housing sites, and maintained by the owner or operator of the park. The open space shall comply with the following requirements:

- a. A minimum of two percent (2%) of the park’s gross acreage shall be dedicated to well drained, usable open space developed with appropriate recreational facilities and play equipment, providing a minimum of twenty-five-thousand (25,000) square feet of contiguous open space.
- b. Open space shall be shaped and located conveniently in relation to the majority of dwelling units intended to be served. Up to twenty-five percent (25%) of the required open space may consist of swamp areas, marshy areas, and similar limited use areas.

14. Landscaping and Screening.

- a. Perimeter Screening. All manufactured housing parks shall be screened from existing adjacent residential uses by either a six (6) foot wall or a densely planted landscaped greenbelt. In addition a landscaped buffer shall be provided along the public road frontage of any manufactured housing park.
  - I. If provided, screen walls shall be constructed of masonry material that is constructed of face brick, decorative block, or poured concrete with a simulated brick or stone pattern. Required walls shall be placed inside and adjacent to the lot line except where underground utilities would interfere with the placement of the wall or where the wall would unreasonably obstruct the use of adjacent property, in which case the wall may be set back from the property line a sufficient distance to resolve such concerns.
  - II. If a landscaped greenbelt is used, it shall be a minimum of twenty (20) feet in width and consist of closely-spaced evergreen plantings (that is, no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Deciduous plan material may be used provided the visual screening is maintained throughout the year.
- b. Landscaping Adjacent to Rights-of-Way. A landscaped berm measuring three (3) feet in height along a landscaped greenbelt shall be constructed along the public rights-of-way on which the manufactured housing park fronts. The berm shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal. Landscaping adjacent to the road shall comply with the following requirements, which are consistent with landscaping required for other types of development in Monterey Township:

<u>Type</u>	<u>Requirements</u>
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Deciduous street tree (e.g. Red or Norway Maple, Linden, Ash) 1 per 40 lineal feet of road frontage

Deciduous or evergreen shrubs 1 per 3 lineal feet of road frontage

- c. Site Landscaping. A minimum of one (1) deciduous or evergreen tree shall be planted per two (2) manufactured housing sites.
- d. Parking Lot Landscaping. Off-street parking lots containing more than fifteen (15) spaces shall be provided with at least ten (10) square feet of interior parking lot landscaping per space. Such areas shall measure at least one-hundred-fifty (150) square feet and shall be covered by grass, ground cover, shrubs or other live plant material. At least one (1) deciduous tree shall be planted per parking lot landscaped area.

15. Canopies. Canopies and awnings may be attached to any manufactured dwelling unit and may be enclosed for use as a sun room or recreation room, but not as a bedroom. Canopies and awnings shall comply with the setback and distance requirements set forth in this Section but shall not require a building permit unless fully enclosed or exceeding ten (10) foot by ten (10) foot in size.

16. Waste Receptacles. If proposed, waste receptacles shall comply with the following requirements as well as Part 5 of the MDEQ Standards for waste receptacles:

- a. Receptacles shall be set back a minimum distance of fifty (50) feet from the perimeter of the manufactured housing park and at least fifteen (15) feet from any building, in a location that is clearly accessible to the servicing vehicle. Receptacles shall be provided within one-hundred-fifty (150) feet of each manufactured housing unit, unless curb-side collection is provided.
- b. Receptacles shall be screened on three (3) sides with a decorative masonry wall or wood fencing, not less than six (6) feet in height. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other sides.
- c. Receptacles shall be placed on a concrete pad which shall extend six (6) feet in front of the dumpster enclosure. Bollards (concrete filled metal posts) shall be installed at the opening of the dumpster enclosure to prevent damage to the screening wall or fence.

17. Signs.

- a. Each manufactured housing park shall be permitted either:

- I. Two (2) signs, each of which shall not exceed five (5) feet in height and sixteen (16) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line; or
  - II. One (1) sign which shall not exceed five (5) feet in height and thirty-two (32) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line.
- b. Management offices and community buildings in a manufactured housing park shall be permitted one (1) identification sign not to exceed six (6) square feet in area.
18. Water and Sewer Service. All manufactured housing parks shall be served by approved central water and sewage systems, which shall meet the requirements of the Allegan County Health Department and the Michigan Department of Public health. Public sewer systems shall be required in manufactured housing parks, if available within two-hundred (200) feet at the time of preliminary plan approval. If a public sewer system is unavailable, the park shall connect to a state-approved sewage system. The plumbing connections to each manufactured housing site shall be constructed so that all lines are protected from freezing, accidental bumping, or from creating any nuisance or health hazard.
19. Storm Drainage. All developed portions of the manufactured housing park shall be served by adequate storm drainage facilities, independent of sanitary sewers, designed and constructed in accordance with applicable local, county, and state regulations as outlined in Part IV of the MDEQ Standards. On-site storm water detention facilities may be required.
20. Underground Wiring and Utilities. All local distribution lines for franchised utilities including but not limited to telephones, electrical service, and cable television, shall be placed entirely underground throughout mobile home parks. Mainlines and perimeter feed lines located on a Section or Quarter Section Line may be above ground if they do not overlap the park. Conduits or cables shall be placed within private easements provided to the service companies by the proprietor and/or developer or within public ways. Those telephones and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All telephones and electrical facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission.
21. Fuel Oil and Gas. Any fuel oil and gas storage shall be located in underground tanks, at a safe distance from all manufactured housing sites. All fuel lines leading to manufactured housing sites shall be underground and designed in

conformance with the Manufactured Housing Commission Rules and other applicable local, county and state regulations.

22. School Bus Stops. School bus stops shall be located in an area that is acceptable to the local school district and the manufactured housing park developer.
23. Mailbox Clusters. The United States Postal Service may require that manufactured housing parks be served by clusters of mailboxes serving several sites rather than individual mailboxes serving individual sites. If mail box clusters are required, they shall be located at least two hundred (200) feet from any intersection of a manufactured housing park road with a public road.
24. Manufactured Housing Unit Sales. The business of selling new or used manufactured housing as a commercial operation shall be permitted after complete occupancy of a new or expanded manufactured housing park has been achieved. Thereafter, new or pre-owned manufactured homes which are to remain on-site in a manufactured housing community may be sold by the resident, owner, licensed dealer or broker, provided the manufactured housing development management permits such sales activity.
25. Prohibitions. A manufactured home shall only be used as a single-family dwelling. This provision shall not be construed to preclude the siting of model manufactured homes on licensed sited in a manufactured home community for sale or temporary sales office purposes.
26. Operational Requirements.
  - a. Permits. A manufactured housing park shall not be operated until a license has been issued by the Michigan Bureau of Construction Codes. The Zoning Administrator shall communicate his/her recommendations regarding the issuance of such licenses to the Director of the Manufactured Housing Division, Bureau of Construction Codes, Michigan Department of consumer and Industry Services. No individual manufactured housing site shall be occupied until the required improvements including utilities and access roads which serve the site are in place and functioning. Buildings constructed on-site, such as a management office or clubhouse, shall require a building permit prior to construction and a Certificate of Occupancy prior to use.
  - b. Violations. Whenever, upon inspection of any manufactured housing park, the Zoning Administrator finds that conditions or practices exist which violate provisions of this Section or other regulations referenced herein, the Zoning Administrator shall give notice in writing by certified mail to the Director of the Michigan Manufactured Housing Commission, including the specific nature of the alleged violations and a description of

possible remedial action necessary to effect compliance with the ordinance or other regulations. The notification shall include such other information as is appropriate in order to fully describe the violations and potential hazards to the public health, safety, and welfare resulting from the violation. A copy of such notification shall be sent by certified mail to the last known address of the park owner or agent.

- c. Inspections. The Zoning Administrator or other authorized Township agent is granted the authority, as specified in Michigan Public Act No. 96 of 1987, as amended, to enter upon the premises of any manufactured housing park for the purpose of determining compliance with the provisions of this Section or other regulations referenced herein.

### **SECTION 10.34 TRANSFER OF DEVELOPMENT RIGHTS**

Development rights may be transferred from parcels of land in the Agricultural, Rural Estate, and Low Density Residential Districts of the Monterey Township Land Use Plan to parcels of the Rural Estate and Low Density Residential Districts in the Zoning Ordinance. The number of Development Rights allowed to be transferred is based primarily on the Land Division Ordinance of Monterey Township Ordinance #1997-1 *The Land Division Act (PA 591 of 1996)* as modified the Monterey Township Zoning Ordinance, i.e., lot sizes, setbacks, lot width etc. and also possibly modified by the *Open Space Preservation Act (PA 177 of 2001)* as presented in the Monterey Township Open Space Preservation Overlay. The process of determining the number of transferable development rights starts out the same as determining the number of allowable divisions in the parent parcel. In no instance may more development rights be transferred than could be utilized on the donor parcel site.

Lots created on the recipient parcel must conform to the recipient parcel's zoning, unless modified by the Open Space Preservation Overlay.

Transfer of Development Rights between parcels in the Agricultural districts may occur only when all involved parcels are part of an Open Space Preservation Overlay.

This Ordinance shall remain in effect until amended or rescinded by the Monterey Township Board or until superseded by the State of Michigan with its own Transfer of Development Rights Law.



## **SECTION 10.35 CONDITONAL ZONING**

When submitting an application for a rezoning, an applicant may voluntarily proposed conditions regarding the request for the use and development of the land as part of the rezoning request.

A. An application for conditional zoning must be submitted with the following information:

1. An applicant for a zoning change may voluntarily offer in writing conditions relating to the use and/or development of the subject property. This offer may be made either at the time the application is filed or may be made at a later time during the rezoning process.
2. The application process shall be the same as that of considering rezoning requests without conditions.
3. The applicant's offer of conditions may not request land uses or developments not permitted in the new zoning district.
4. Any use or development proposed as part of an offer of conditions that would require a special use permit under the terms of this Ordinance may only begin if a special use permit has been granted by the Township.
5. If the use or development requires a variance by the Zoning Board of Appeals, the use or development cannot begin until the variance has been granted.
6. If the proposed use or development requires site plan approval, the use or development cannot begin until the site plan has been approved.
7. The offer of conditions may be amended during the process of rezoning provided that any amended or additional conditions are made voluntarily by the applicant. An applicant may withdraw all or part of the conditions any time during the rezoning process. However, if the withdrawal of conditions occurs after the Planning Commission public hearing on the original rezoning request, then the application for rezoning shall be referred to the Planning Commission for a new public hearing.

B. The Planning Commission may recommend approval, approval with recommended changes, or denial of the rezoning application. However, any recommended changes must be approved by the applicant.

C. After receipt of the Planning Commission's recommendation, the Township Board may approve or deny the rezoning application. If the Township Board considers amendments to the proposed conditional rezoning application to have merit and if they are acceptable to the applicant, the Township Board shall refer such amendments to the Planning Commission for comment and proceed with the rezoning

application to deny or approve the conditional rezoning request with or without amendments.

D. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the applicant. The Statement of Conditions shall:

1. Be in a form recordable with the Allegan County Register of Deeds or in a form acceptable to the Township.
2. Contain a legal description of the land
3. Contain a statement acknowledging the Statement of Conditions runs with the land and is binding on successor owners of the land.
4. Incorporate by attachment or reference any drawings approved by the applicant and the Township.
5. Incorporate a statement acknowledging that the Statement of Conditions may be recorded by the Township with the Register of Deeds
6. Contain the notarized signatures of all owners of the subject land preceded by a statement attesting to the fact that they voluntarily offered and consented to the provisions of the Statement of Conditions.

E. When the rezoning takes effect, the Township Clerk shall amend the zoning map to reflect that the subject land contains special conditions.

F. The use of the land shall conform to all of the requirements relating to its use and development.

G. If an approved use and/or development does not occur within the time frame specified in the Statement of Conditions, the land shall revert to its former zoning classification. The rezoning back to its original classification shall be initiated by the Township Board.

H. The Statement of Conditions shall be null and void if the subject property is rezoned to a District not requested by the applicant.

I. If the Statement of Conditions does not specify a date by which the development must commence, the property will revert back to its former classification within three (3) months if a building permit for the development has not been issued.

J. In the event the use permitted under these provisions ceases to operate for a period of twelve (12) consecutive months, the land shall revert back to its former zoning classification. The process for reversion shall be initiated by the Township Board.

**SECTION 10.36 FLOOD PLAIN REGULATIONS**

Any structure including but not limited to houses, garages, barns etc. which are built in or upon a flood plain as identified on an official Flood Plain Management Map are subject to the following regulations:

A. Definitions

1. Floodway means the channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regulatory flood. For this purpose the limit of the floodway shall be established by allowing not more than one (1) foot rise of the water surface elevation of the regulatory flood as a result of encroachment. Whenever practical, equal conveyance reduction from each side of the flood plain shall be used.
2. Flood fringe means that portion of the flood hazard area outside the floodway.
3. Flood hazard area means the area inundated by the regulatory flood
4. Flood plain means the area adjoining the channel of the stream which has been or hereafter may be covered by the flood water.
5. Flood-proofing means any combination of structural or nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.
6. Flood protection elevation means one (1) foot above the elevation of the flood that has one (1) percent chance of occurring in any one (1) year.

B. Prohibited Uses. Within the floodway, except as may permitted by special use permit, the following, the following uses are prohibited.

1. Erection of any structure for occupancy at any time by humans or animals
2. Placing, depositing, or dumping any spoil, fill, or solid waste
3. Stockpiling or disposal of pesticides, petroleum products, or hazardous materials which, if flooded, would pollute the waters of the basin,

Within the flood fringe, except as permitted by special use permit, the following uses are prohibited:

1. Stockpiling or disposal or pesticides, domestic or industrial waste, petroleum products, or hazardous materials which, if flooded, would pollute the waters of the watershed.

2. Any use which will adversely affect the capacity of channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility.

C. Permitted Uses. Within the floodway, the following uses are permitted to the extent that they do not require structures, fill or storage materials, or permanently installed equipment, and do not adversely affect the capacity of the floodway.

1. Agricultural uses such as general farming, livestock and dairy farming, horticulture, truck farming, sod farming, forestry, wild crop harvesting, and normal associated practices.
2. Private and public recreational uses such as golf courses, picnic grounds, wildlife preserves, and hunting and fishing areas.

Within, the flood fringe the following uses are permitted:

1. Any uses permitted in the floodway.
2. Residences and other structures constructed so that the first floor, including basement, is at least fifteen (15) feet above the Flood Protection Elevation for that particular area.

D. Stabilization Requirements. Any area of land from which natural vegetation cover has been either partially or wholly cleared or removed by development or agricultural activities within ten (10) feet of the edge of a waterway identified on the Official Flood Hazard Map, shall be re-vegetated within ten (10) from the substantial completion of such clearing and construction. The following criteria shall apply to re-vegetation efforts:

1. Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety (90) percent of the seeded area.
2. Any area of re-vegetation must exhibit survival of a minimum of seventy-five (75) percent of the cover crop throughout the year immediately following re-vegetation. Re-vegetation must be repeated in successive years until the minimum seventy-five (75) percent survival for one (1) year is achieved.
3. Replanting with native woody or herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and capable of controlling erosion.

**SECTION 10.37 ANTI-FUNNELING ON INLAND LAKES**

The Monterey Township Planning Commission and the Board of Trustees recognize that the water resources, including the inland lakes in the Township, should be considered as integral to the inventory of its valued natural resources. As shorelines on lakes become further developed and subjected to human and mechanical influence, usage of the respective property must be regulated in order to preserve and protect the riparian owners as well as the Township and non-riparian rights owners alike. The lack of regulations constitutes a nuisance condition and impairment of these important and irreplaceable natural resources. A lack of regulations shall also result in diminution of property values and threaten the health safety and welfare within the Township and properties adjacent to inland lakes in the Township. Therefore, it is the intent of the Township Board to adopt reasonable, minimal regulations of land ingress and egress of water craft and human usage of these natural resources in the Township

When two (2) or more families/legal entities/parties share access on navigable water without residing on said frontage, such common usage and/or ownership of the waterfront shall be governed by this Section. The provisions apply regardless of whether access to the waterfront is gained by easement, common or joint ownership, single fee ownership, lease, license, site condominium unit, stock or membership in a corporation, private agreement, or any other means.

- A. No more than one (1) watercraft slip, mooring, boat hoist, raft, or other means of anchorage will be developed per fifty (50) feet of water frontage.
- B. No more than one (1) dock per one hundred (100) feet of water frontage shall be allowed on the water and shall otherwise comply with all relevant county and state regulations.
- C. No boat launch facilities shall be permitted on any lot with water frontage.
- D. A dock shall be limited to a maximum length of one hundred (100) feet or water depth of four (4) feet whichever is less.

## SECTION 10.38 WIND ENERGY CONVERSION SYSTEMS

A. **Purpose:** The regulation of wind energy conversion systems (WECS), including the height, minimum lot area, and required setbacks of such systems, is intended to provide for an alternative source of power generations while protecting the health, safety, and welfare of Township residents.

B. **Definitions:**

1. **Ambient Noise Level:** Sometimes called background noise level, is the noise level that exists in the absence of unrelated wind turbine sound and is normally present at least ninety percent (90%) of the time. Ambient noise level shall not be measured during sporadic noise events such as seasonal farming, traffic, or weather events that would distort the establishment of a baseline level representative of the rural environment.
2. **ANSI:** American National Standard Institute
3. **Associated Property:** The property on which a large turbine wind energy system is located.
4. **dB(A):** The sound pressure in decibels.
5. **Decibel:** The unit of measure used to express the magnitude of sound pressure and sound intensity.
6. **IEC:** International Electro-technical Commission.
7. **ISO:** International Organization for Standardization.
8. **Non-associated Property:** Real property on which there is no large turbine wind energy system.
9. **Occupied dwelling (associated and non-associated):** An existing single family detached dwelling unit occupied by permanent resident(s). An occupied dwelling shall also include a church and a commercial business conducted in a structure not used for a dwelling unit.
10. **Rotor:** An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting rotation, kinetic energy directly from the wind.
11. **SCADA Tower:** A freestanding tower containing instrumentation such as anemometers that are designed to provide present moment wind data for use by the supervisory control and data acquisition system.

12. **Shadow Flicker:** Alternating changes in light intensity caused by the moving blade of the wind energy system casting shadows on the ground and stationary objects, such as a window in a dwelling unit.
  13. **Sound Pressure:** The average rate at which sound energy is transmitted through a unit area in a specified direction.
  14. **Sound Pressure Level:** The sound pressure mapped to a logarithmic scale and reported in decibels.
  15. **Wind Energy Conversion System:** A wind energy conversion system which converts wind energy into electricity through the use of wind turbine generator and includes the turbine blades, the tower, and the related electrical equipment. This does not include wiring to connect the wind energy system to the grid.
    - a. A small turbine or on-site system is intended to primarily serve the needs of the customer with a single tower that may or may not be connected to the utility grid.
    - b. A large turbine or utility grid system is designed to generate electricity from one or more towers (within an array) and is intended to serve development within the community or throughout the region.
  16. **Wind Site Assessment:** An assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.
- C. **Small Turbine or On-site Wind Energy** systems with a tower exceeding one hundred (100) feet in height are permitted by a Special Use Permit in the A-1 and R-1 Districts. Installation of an anemometer tower used to assess the feasibility of an on-site wind energy system and exceeding one hundred (100) feet in height shall also be permitted by Special Use Permit. On-site energy systems with no towers or towers one hundred (100) feet in height or less shall be permitted uses in the A-1 and the R-1 Districts. The maximum height of a small wind turbine tower, including the blade in its most vertical position, shall be one hundred and ninety-nine (199) feet.

Wind energy systems that are subject to a Special Use Permit shall submit the following:

1. A site plan showing the location of the proposed tower(s) on the site meeting a minimum setback from property lines, road rights-of-way, and associated occupied dwelling units of one hundred and fifty percent (150%) of the height of the tower including the blade in its most vertical position.
2. Documentation that the sound pressure is no greater than fifty (50) dBA at non-associated property lines, forty-five (45) dBA at exterior of an associated

occupied dwelling, and thirty-five (35) dBA at the exterior of a non-associated occupied dwelling, existing at the date the special use permit is granted.

3. Proof of the applicant's public liability insurance of \$1,000,000 per incident, per occurrence.
  4. Documentation that the wind energy system including towers comply with all construction and electrical codes.
  5. Proof that all wind energy systems shall have automatic, governing, or a feathering system to prevent uncontrolled rotation or over-speeding.
  6. Demonstration that that tower(s) shall have lightning protection.
  7. Demonstration that the minimum vertical blade tip clearance from grade shall be twenty (20) feet for a wind energy system employing a horizontal axis rotor.
  8. Demonstration that the tower(s) comply with the Michigan Airport Zoning Act, the Michigan Tall Structures Act, and Federal Aviation Administration (FAA) regulations.
- D. **Large Turbine or Utility Grid Wind Energy Conversion Systems** are permitted in the A-1 District by a Special Use Permit. In addition to the requirements for an on-site wind energy system, the applicant must provide the following information:
1. **A wind site assessment** determining the wind speeds affecting the site and the subsequent feasibility of using the site for a wind energy system.
  2. **Copies of the results of modeling and analysis report** determining noise and sound pressure levels.
  3. Audible noise or sound pressure level from the operation of a WECS shall not exceed fifty (50) dBA at non-associated property lines. Audible noise or sound pressure from the operation of a WECS shall not exceed forty-five (45) dBA measured at the exterior of any associated occupied residence, and thirty-five (35) dBA at the exterior of any non-associated occupied dwelling existing on the date of the approval of any WECS special use permit. The applicant shall be able to provide sound pressure level measurements from a reasonable number of sampled locations throughout a 12 month period at the perimeter and in the interior of the WECS site to demonstrate compliance with this standard. If audible noise exceeds these levels, the offending turbine(s) must be inoperable until repairs are completed or a waiver agreement is obtained from the affected property owner(s).
  4. The applicant of wind turbine facility shall pay for all noise monitoring or measurements as required when reasonable need is determined by the Monterey Township Board of Trustees.



5. In the event the noise levels resulting from the WECS exceed the criteria listed herein, a waiver to said levels may be granted by the Township Board provided that written consent from affected property owners has been obtained stating that they are aware of the WECS and noise limitations imposed by this ordinance and that they consent to allow noise levels to exceed the maximum limits otherwise allowed, The noise limitations contained herein may be exceeded during short term events such as severe wind storms and/or utility outages.
6. **Visual simulations depicting how the completed project will look from viewable angles.** The system shall use tubular towers covered in a non-reflective matte finish color. No lettering, company insignia, advertising, or graphics shall be on any part of the tower (s). The project shall be so designed to have a similar appearance throughout.
7. **Copy of an environmental impact analysis.** The applicant shall have a third party professional conduct an analysis to identify and assess any potential impacts on the natural environment, including historical sites. The analysis shall also address potential electromagnetic interference with existing transmission systems.
8. **Copy of an avian and wildlife impact analysis.** That applicant shall have an independent third party, qualified professional conduct an analysis to identify and assess any potential impacts on migratory birds, bats, and wildlife. At a minimum the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. The owner/operator shall produce an avian risk study covering the areas likely to be affected by the project and conducted within twelve (12) months of application for a special use permit. These analyses shall be conducted for each phase of the project.

The Monterey Township Board of Trustees may require additional impact studies conducted by an independent third party, qualified professional to assess potential impacts of any phase of a WECS on avian and wildlife populations once the project or each phase of the project has been completed. The results of these studies shall be evaluated when issuing the renewal(s) of the special use permit issued for the WECS.

9. **Copy of a shadow flicker analysis.** The analysis shall identify the locations of shadow flicker on adjacent property that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify problem areas where shadow flicker may affect the occupants of the structures and describe measures to eliminate or mitigate the problems. Under no circumstances shall shadow flicker occur on an associated inhabited dwelling more than thirty (30) hours per year. Under no circumstances shall shadow flicker occur on a non-associated inhabited dwelling, unless a waiver is signed by the affected property owner.

10. **Description of a complaint resolution process.** The process may use an independent mediator or arbitrator and shall include a time limit for acting on the complaint. The process shall not preclude government form acting on the complaint.
11. **Manufactures' material safety data sheets** describing the type and quantity of all materials used in the operation of all equipment including lubricants and coolants.

**E. Performance Standards for Large Turbine or Utility Grid WECS**

1. **Vibration.** Under no circumstances shall a WECS produce vibrations at a level scientifically proved by an unbiased and peer reviewed report to have a negative impact on the natural and/or human environment.
2. **Electromagnetic Interference.** No WECS shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the owner/operator provides a replacement signal to the affected party that will restore reception to at least the level present before operations of the WECS. No WECS system shall be installed in any location within the line of sight of an existing microwave communications link where the operation of the WECS is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.
3. **Waste Management.** All solid waste, whether generated from supplies, equipment, parts, packaging as well as operating and maintaining the facility, including old parts and equipment shall be removed from the site in a timely manner consistent with industry standards. All hazardous waste generated by the operation and maintenance of the facility, including but not limited to lubricating materials, shall be handled and disposed of in a manner consistent with federal EPA and state MDNR regulations.
4. **Infrastructure.** The owner of the large turbine WECS shall reimburse Monterey Township and/or Allegan County for any and all repairs and reconstruction to public roads, culverts, and natural drainage ways resulting directly from the construction of the facility. Before construction the owner/operator shall secure a permit from the Allegan County Road Commission for the transport and construction of a WECS. Where the construction of a WECS cuts through a private or public drain tile field, the drain tile must be repaired and reconnected to properly drain the site.
5. **Decommissioning.** The owner/operator shall complete decommission of the WECS within twelve (12) months after the end of the useful life for the facility or

individual wind turbines. The end of its useful life shall be determined if no electricity is generated for a period of twelve (12) consecutive months.

- a. Decommissioning shall include the removal of wind turbines, buildings, cabling, electrical components, roads, and foundations unless the property owner agrees in writing that any or all, buildings, roads, and/or foundations remain on the site. This agreement shall be attached to the deed of the property and recorded with the Allegan County Register of Deeds. If the foundations remain, there shall be a minimum of forty-eight (48) inches of soil between the top of the foundation(s) and grade level of the site.
  - b. Disturbed earth shall be graded and re-seeded to the satisfaction of the property owner.
  - c. An independent and registered professional engineer shall be retained to estimate the cost of decommissioning (decommissioning costs) without regard of salvage value of the equipment and the cost of decommissioning net salvage value (net decommissioning costs) of the equipment. These costs shall be updated every five (5) years.
  - d. The facility owner/operator shall post and maintain decommissioning funds equal to net decommissioning costs. At no point shall the funds be less than twenty-five percent (25%) of decommissioning costs. The funds shall be maintained in a manner determined by the Township Board of Trustees.
6. **Maximum Height.** The maximum height of a large WECS tower including the blade in its most vertical position shall be four hundred and fifty (450) feet.
7. **Minimum Ground Clearance.** The blade tip of any large wind turbine shall, at its lowest point, have a ground clearance of not less than fifty (50) feet.
8. **Safety.**
- a. All electrical wires and lines connecting each turbine to the next turbine shall be installed underground and comply with all applicable electrical codes. The wires and lines running from the last turbine in a string to any substation connecting to the electric utility shall also run underground.
  - b. Wind turbine towers shall not be climbable from the outside up to fifteen (15) feet above ground level.
  - c. All access doors to wind turbine towers and electrical equipment shall be locked when unattended.

- d. Appropriate warning signage shall be placed on wind turbine towers and electrical equipment.
  - e. The facility (site and structures) shall have a minimum of an annual inspection report of structural stability, paid for by the owner/operator and filed with the Monterey Township clerk. Turbines failing inspection or found unsafe shall be repaired, replaced or removed.
  - f. The owner/operator shall post and maintain at each facility a 24 hour a day manned telephone number in case of an emergency.
  - g. The owner/operator shall be responsible for the total cost of any incident(s) that occur on or at each facility.
  - h. All towers shall have functioning lightning protection and comply with the Michigan Airport Zoning Act, the Michigan Tall Structures Act, and Federal Aviation Administration (FAA) regulations. All towers shall not exceed the minimum FAA standards for lighting. All tower lighting shall be shielded so as to prevent glare and visibility from the ground.
  - i. All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls and mechanical brakes. Mechanical brakes shall be operated in a failsafe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.
9. **Insurance.** A certificate of insurance with a minimum of \$5,000,000 liability per incidence, per occurrence shall be required at the time of application for a special use permit. Each renewable period will require that a copy of a certificate of insurance be provided to the Monterey Township Clerk. An expired insurance certificate or unacceptable liability coverage amount is grounds for revocation of the special use permit. This insurance shall be in effect during the construction, operation, and decommissioning of the project.

The owner/operator shall defend, indemnify, and hold harmless Monterey Township and its officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liabilities, whatsoever including legal fees arising out of the acts or omissions of the operator concerning the operation of the large turbine WECS without limitation, whether said liability is premised on contract or tort.

10. **Setbacks.** All WECS towers shall observe a minimum setback of six hundred (600) feet or one hundred and fifty percent (150%) of the tower height including the blade in its most vertical position whichever is greater from any non-associated property line and/or road right-of-way. In addition all WECS towers shall observe a minimum setback of one thousand (1,000) feet from any

associated occupied dwelling unit and fourteen hundred (1400) feet from non-associated dwelling unit.

11. **Waiver agreements:** Copies of all waiver agreements, relating to the standards contained in these regulations, executed between the owner/operator or applicant of the WECS and non-associated or associated parties shall be filed with the Monterey Township Clerk.
12. **Construction Activities.** Construction activities shall be organized and timed to minimize impacts on township residents and wildlife from noise, disruption (including disruption of wildlife habitat), and the presence of vehicles and people.
13. **Final construction drawings.** Upon completion of each and every phase of the WECS, the owner/operator shall provide a final as-built construction drawing to the Monterey Township clerk as well as to all relevant utility companies. Amendments to the drawings shall also be provided to the Township Clerk and to all relevant utility companies in a timely manner.
14. In addition to the standards contained in this Section of the Zoning Ordinance, small and large WECS projects must comply with Section 10.18 of the Zoning Ordinance which governs the issuance of special use permits. Under Section 10.18 Monterey Township may impose other reasonable conditions on a WECS project to protect the health, safety, and welfare of Monterey Township residents. These conditions may include a reasonable expiration of the special use permit to monitor compliance with the specified conditions.

If a WECS project is to be developed in phases, each phase is subject to a separate special use permit.

15. The Township Board shall have the authority to revoke any special use permit if (a) it was granted in part because of material misrepresentation by the applicant or an agent for the applicant; or (b) the holder of the permit violates any term of the permit, including any condition or any applicable requirement of the zoning ordinance. In either event, the Township clerk shall give written notice to the holder of the permit describing the basis of the violations. Upon documented receipt of the notice, the holder shall have thirty (30) days to correct the violations. If the violations are not corrected within the specified time, the Township Board may revoke the permit after a public hearing. The holder of the permit shall reimburse the Township for its costs including expert consulting and attorney fees associated with or resulting from a revocation proceeding.

**SECTION 10.39 FENCES**

- A. Materials: Fences shall consist of materials commonly used in conventional fence construction such as wood, metal, or vinyl. Barbed wire, razor wire, or similar security materials which could easily cause injury to persons, or fences that carry an electric current shall not be permitted in the R-2, R-3, or R-4 zoning districts.
- B. Finished Appearance: If, because of design or construction, one side of a fence has a more finished appearance than the other side, the side of the fence with the more finished appearance shall face the exterior of the lot.
- C. Location: Fences shall be placed inside and adjacent to the lot line, except where underground utilities interfere with the fence at the property line, in which case the fence shall be placed on the utility easement line nearest the property line.
- D. Height: All fences shall not exceed eight (8) feet in height above grade except that fences located in required front yards shall not exceed forty-two (42) inches above grade.
- E. A four (4) foot (minimum height) fence shall surround all below ground swimming pools.
- F. A six (6) foot (minimum height) fence shall surround all playgrounds associated with a children's day facility.
- G. Parcels located in Ag-1 and R-1 zoning districts shall be exempt from all fence height and use restrictions, except for paragraphs E. and F.

**SECTION 10.40 RACETRACKS AND OBSTACLE COURSES**

The operation of any race track, proving grounds, testing area, or obstacle course for vehicles, motorcycles, boats, racers, trucks, go-carts, snowmobiles, off-road vehicles, or vehicles of any kind or nature is prohibited in all residentially zoned areas as well as within one-thousand (1000) feet of any residentially zoned property as measured from the property line on which the racing may take place. A special use permit, which includes hours of operation and any other reasonable conditions the Township may impose, is required in all other zoning districts on the Township.

## **CHAPTER 11-PARKING AND LOADING STANDARDS**

### **SECTION 11.01 OFF-STREET PARKING REQUIRED.**

In all zoning districts, off-street facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of all buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as herein prescribed.

Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for the new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.

### **SECTION 11.02 GENERAL REQUIREMENTS.**

In all zoning districts, off-street vehicle parking facilities shall be provided and maintained as herein prescribed:

- A. **Off-Street Parking Spaces for One and Two-Family Dwellings.** Off-street parking facilities required for one and two-family dwellings shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve.
- B. **Off-Street Parking for Multiple-Family and Non-Residential Uses.** Off-street parking facilities required for multiple-family and non-residential uses shall be located on the same lot or parcel as the building or use they are intended to serve, or within three hundred (300) feet of such building or use. Ownership or a use easement, duly recorded with the Township, shall be shown for all land areas intended for use as parking by the applicant.
- C. **Existing Parking Facilities.** An area designated as required off-street parking facilities in existence at the effective date of this Ordinance shall not be reduced below the requirements for the use or building served as set forth in this Ordinance.
- D. **Joint Use of Facilities.** Provision of common parking facilities for several uses in the same vicinity is encouraged. In such cases, the total space requirement is the sum of the individual requirements at the same time of day. The maximum joint requirements will be less than the total individual requirements if the peak needs for the uses occur at distinctly different times of the day from the peaks of the other uses.
- E. **Non-overlapping Operating Hours.** In the instance of land uses requiring off-street parking spaces where operating hours of the uses do not overlap, the Planning Commission may grant an exception to the individual provisions of Section 11.03.
- F. **Restriction of Parking on Private Property.** It shall be unlawful to park or store any motor vehicle on private property without the express written consent of the owner, holder, occupant, lessee, agent, or trustee of said private property.



- G. Duration. Except when land is used as permitted storage space in direct connection with a business, a twenty-four (24) hour time limit for parking in non-residential off-street parking areas shall prevail, provided that it shall be unlawful to permit the storage of wrecked, inoperable, or junked vehicles on any parking area in any district.
- H. Use of Loading Space. Required loading spaces shall not be counted or used for required parking.
- I. Fractional Requirements. When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one (1) parking space.
- J. Uses Not Specified. For those uses not specifically mentioned under Section 11.03, the requirements for off-street parking facilities shall be in accord with a use which the Planning Commission considers to be similar in type.

**SECTION 11.03 TABLE OF OFF-STREET PARKING REQUIREMENTS.**

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

Use	Spaces Per Unit of Measure
-----	----------------------------

**1. Residential**

- |                                                                             |                                                                                                                                                                                     |
|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. Residential, One-Family and Two-Family Dwelling, including mobile homes. | Two (2) for each dwelling unit.                                                                                                                                                     |
| b. Residential, Multiple-Family                                             | One (1) for each efficiency unit, one and one-half (1-1/2) for each one (1) bedroom unit, two (2) for each two (2) bedroom unit, and three (3) for three (3) or more bedroom units. |
| c. Residential, Multiple-Family Senior Citizen Housing                      | One (1) for each dwelling unit plus one (1) for each employee. If units revert to general occupancy, then Section 11.03(1)b above applies.                                          |
| d. Boarding, Rooming, Lodging                                               | One (1) parking space for each occupancy unit plus one (1), parking space for each employee on the largest employment shift.                                                        |

**2. Institutional**

- |                         |                                   |
|-------------------------|-----------------------------------|
| a. Churches, Temples or | One (1) for each three (3) seats, |
|-------------------------|-----------------------------------|

- |                                                                                       |                                                                                                                                                                                                                  |
|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Synagogues                                                                            | based on maximum seating capacity in the main unit of worship.                                                                                                                                                   |
| b. Hospitals                                                                          | One (1) for each patient bed, plus one (1) additional space for every worker employed during the eight (8) hours shift in which the greatest number of employees are on duty.                                    |
| c. Foster Care Group Homes, Homes for the Aged, Convalescent Homes and Children Homes | One (1) for each three (3) beds, plus one (1) for each employee on the largest employment shift.                                                                                                                 |
| d. Elementary and Junior High Schools                                                 | One (1) for each one (1) teacher, employee or administrator, plus one (1) per classroom for visitor use in addition to the requirements for the auditorium, if provided.                                         |
| e. Senior High Schools                                                                | One (1) for each teacher, employee or administrator, one (1) for each ten (10) students, and one (1) per classroom for visitor use, in addition to the requirements for the auditorium and stadium, if provided. |
| f. Private Clubs or Lodge Halls                                                       | One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.                                                          |
| g. Boat Launch, Private or Public                                                     | Twenty-four (24) combined vehicle and boat trailer spaces for each one (1) individual boat ramp.                                                                                                                 |
| h. Theaters and Auditoriums                                                           | One (1) for each three (3) seats plus one (1) for each two (2) employees on the largest employment shift.                                                                                                        |
| i. Libraries, Museums, Cultural                                                       | One (1) for each four hundred (400) Centers or Similar Facilities square feet of gross floor area.                                                                                                               |
| j. Nursery, Day Care, or Child Care Centers                                           | One for each three hundred fifty (350) square feet of usable floor space.                                                                                                                                        |

**3. Recreational**





- of gross floor area, with a minimum of eight (8) spaces.
- i. Laundromats and Coin Operated Dry Cleaners One (1) for each two (2) washing machines.
- j. Mortuary Establishments One (1) for each fifty (50) square feet of assembly room parlor, and slumber room.
- k. Motel, Hotel or Other Commercial Lodging Establishment One (1) for each one (1) occupancy unit plus one (1) for each one (1) employee on the largest shift, plus extra spaces for dining rooms, ballrooms, or meeting rooms as required based upon maximum occupancy load.
- l. Motor Vehicle Sales and Service Establishments, Trailer Sales and Rental, Boat Showrooms One (1) for each two hundred (200) square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room, plus one space per employee on the largest employment shift.
- m. Open Air Business One (1) for each six hundred (600) square feet of lot area used in open air business.
- n. Restaurant, Carry-Out One (1) for each one hundred (100) square feet of gross floor area.
- o. Roadside Stands Six (6) for each establishment.
- p. Retail Stores, Except as Otherwise Specified Herein One (1) for each one hundred and fifty (150) square feet of usable floor area.
- q. Shopping Center/Clustered Commercial Four (4) spaces per one thousand (1,000) square feet of gross floor area.

**5. Offices**

- a. Banks, Savings and Loan Offices One (1) for each one hundred (100) square feet of usable floor area, and four (4) stacking spaces for each drive-in or drive-thru transaction station as required by Section 11.05.

- b. Business Offices or Professional Offices, except as indicated in the following item (c) One (1) for each two hundred (200) square feet of usable floor area.
- c. Medical or Dental Clinics, Professional Offices of Doctors, Dentists, or Similar Professions One (1) for each one hundred (100) square feet of usable floor area in waiting rooms and one (1) for each examining room, dental chair or similar use area.
- d. Offices of local, state or federal government or non-profit agencies. One (1) for each two hundred (200) square feet of usable floor area.

**6. Industrial**

- a. Industrial or Research Establishments Five (5) plus one (1) for every one (1) employee in the largest working shift. Parking spaces on the site shall be provided for all construction workers during the period of plant construction.
- b. Wholesale or Warehouse Establishments Five (5) plus one (1) for every one (1) employee in the largest working shift, or one (1) for every one thousand seven hundred (1,700) square feet of gross floor area.

**SECTION 11.04 OFF-STREET PARKING FOR PHYSICALLY HANDICAPPED PERSONS.**

Off-street parking facilities as required under this Ordinance shall include, in accordance with the following table and identified by signs, parking spaces which are reserved for physically handicapped persons. Signs shall be located approximately six (6) feet above grade. Each reserved parking space shall be not less than thirteen (13) feet wide. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient of not more than one (1) foot in twelve (12) feet and a width of not less than four (4) feet shall be provided for wheelchair access. Parking spaces for the physically handicapped shall be located as close as possible to walkways and building entrances. Signs shall be provided when necessary indicating the direction to a barrier-free entranceway into a building.

<b>Total Parking Spaces in Lot</b>	<b><u>Required Number of Handicapped Spaces</u></b>
------------------------------------	-----------------------------------------------------

<u>Up to 25</u>	<u>1</u>
<u>26 to 50</u>	<u>2</u>
<u>51 to 75</u>	<u>3</u>
<u>76 to 100</u>	<u>4</u>
<u>101 to 150</u>	<u>5</u>
<u>151 to 200</u>	<u>6</u>
<u>201 to 300</u>	<u>7</u>
<u>301 to 400</u>	<u>8</u>
<u>401 to 500</u>	<u>9</u>
<u>501 to 1,000</u>	<u>2% of total</u>
<u>over 1,000</u>	<u>20 plus 1 for each 100 spaces over 1,000</u>

**SECTION 11.05 OFF-STREET WAITING AREA AND STACKING SPACES FOR DRIVE-THRU FACILITIES.**

- A. On the same premises with every building, structure or part thereof, erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement, such as drive-in banks or cleaning establishments, where the automobile engine is not turned off, there shall be provided four (4) off-street stacking spaces for each service window or transaction station. Eight (8) off-street stacking shall be provided for each drive-thru transaction station of a restaurant.
  
- B. Self-service motor vehicle car wash establishments shall provide three (3) off-street stacking spaces for each washing stall. Quick oil change facilities and motor vehicle car wash establishments, other than self-service, shall provide stacking spaces equal in number to three (3) times the maximum capacity of the motor vehicle wash for automobiles awaiting entrance. "Maximum capacity" shall mean the greatest number possible of automobiles undergoing some phase of washing at the same time, which shall be determined by dividing the length of each wash line by twenty (20) feet. A drying lane fifty (50) feet long shall also be provided at the exit of the washing stalls in order to prevent undue amounts of water from collecting on the public street and thereby creating a traffic hazard.
  
- C. An off-street waiting space is defined as an area ten (10) feet wide by twenty (20) feet long.

**SECTION 11.06 OFF-STREET PARKING LOT LAYOUT, CONSTRUCTION, AND MAINTENANCE.**

All off-street parking lots shall be laid out, constructed, and maintained in accordance with the following requirements:

- A. **Review and Approval Requirements.** In the event that new off-street parking is proposed as part of a development requiring site plan review, said proposed parking shall be shown on the site plan submitted to the Planning Commission for review in accordance with Section 10.24. In the event that proposed off-street parking is not part of a development requiring site plan review, the applicant shall submit a parking plan to the Township Planning Commission for review and approval.

Plans shall be prepared at a scale of not less than fifty (50) feet equal to one (1) inch. Plans shall indicate the location of the proposed parking in relation to other uses on the site and on adjoining sites, the proposed means of ingress and egress, the number and dimensions of parking spaces, and the method of surfacing. Existing and proposed grades, drainage, water mains and sewers, surfacing and base materials, and the proposed parking layout shall also be shown.

Upon completion of construction, the parking lot must be inspected and approved by the Zoning Administrator before a Certificate of Occupancy can be issued for the parking lot and for the building or use the parking is intended to serve.

- B. **Layout Requirements.** Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

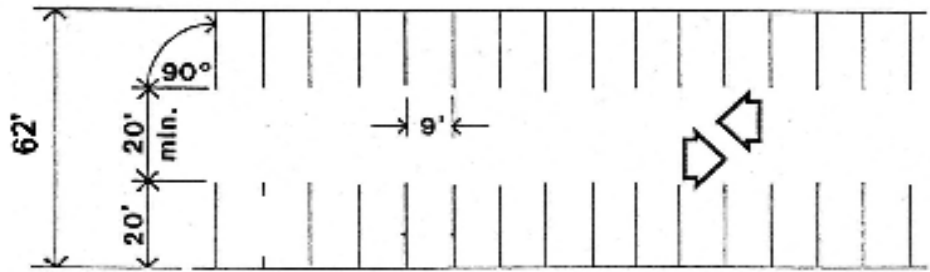


<u>Parking Patterns</u>	<u>Lane Width</u>	<u>Parking Space Width</u>	<u>Parking Space Length</u>	<u>Total width of one tier of stalls and maneuvering lane</u>	<u>Total width of two tiers of stalls and maneuvering lane</u>
<u>0° (Parallel Parking)</u>	<u>12 ft.</u>	<u>8 ft.</u>	<u>23 ft.</u>	<u>20 ft. (one way)</u> <u>32 ft. (two way)</u>	<u>28 ft. (one way)</u> <u>40 ft. (two way)</u>
<u>30° to 53°</u>	<u>12 ft.</u>	<u>8 ft.</u>	<u>20 ft.</u>	<u>32 ft.</u>	<u>52 ft.</u>
<u>54° to 74°</u>	<u>15 ft.</u>	<u>8 ft.</u>	<u>20 ft.</u>	<u>36 ft.</u>	<u>55 ft.</u>
<u>75° to 90°</u>	<u>20 ft.</u>	<u>9 ft.</u>	<u>20 ft.</u>	<u>40 ft.</u>	<u>60 ft.</u>

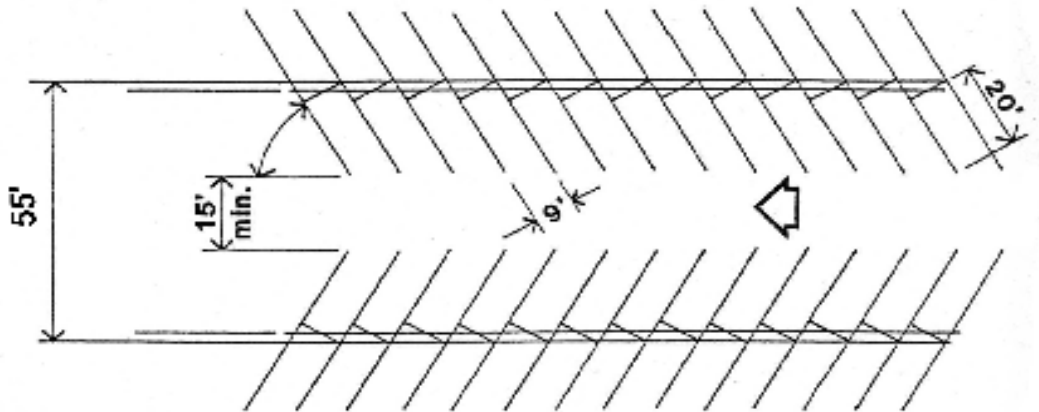
- C. **Access.** All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street or alley shall be prohibited.
- D. **Ingress and Egress.** Adequate ingress and egress to the parking lot shall be provided by means of clearly defined and limited drives. No entrance or exit from any parking lot in a non-residential district or from a non-residential use shall be nearer than twenty (20) feet to any residentially zoned district.
- E. **Paving.** All parking lots shall have a hard surface unless waived by the Township Board.
- F. **Bumper Stops.** Bumper stops or curbing shall be provided so as to prevent any vehicle from projecting beyond the parking lot area or bumping any wall or fence or encroaching upon landscaping.  
  
 In all cases where parking lots abut public or private sidewalks, continuous concrete curbing or bumper stops, at least six (6) inches high, shall be placed so that a motor vehicle cannot be driven or parked on any part of the sidewalk. In all cases where necessary for the protection of the public and the adjoining properties, streets or sidewalks, curbs as described above, shall be installed.
- G. **Striping.** All spaces shall be outlined with three (3) inch stripes of paint, the color of which contrasts with the parking lot surface.
- H. **Screening.** All off-street parking areas, except those serving single and two-family residences, shall be screened.
- I. **Parking Setbacks.** All parking setbacks as required elsewhere by this Ordinance shall be maintained.
- J. **Landscaping.** Where yard setbacks are required, all land between the required walls and the property lines, and other unpaved areas which are designed to break up the expanse of paving, shall be kept free from refuse and debris and shall be landscaped

- with lawns, deciduous shrubs, evergreen plant material, and ornamental trees. All such landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance.
- K. **Lighting.** All lighting used to illuminate any off-street area shall not exceed twenty (20) feet in height above the parking surface grade and shall be directed or shielded so as not to shine onto any adjacent properties or public right-of-ways.
- L. **Buildings.** No building or structure shall be permitted on an off-street parking lot, except for a maintenance building or attendant shelter, which shall not be more than fifty (50) square feet in area and not more than fifteen (15) feet in height.
- M. **Additional Requirements.** In addition to the above requirements, parking areas shall comply with additional requirements or conditions which may be deemed as necessary by the Planning Commission for the protections of abutting properties in a residential district.
- N. **Delay in Construction.** In instances where the Zoning Board of Appeals determines that weather conditions prohibit parking lot construction, the construction may be temporarily waived, pending suitable weather, but the Zoning Board of Appeals shall require a cash or surety bond in the anticipated amount of the parking lot construction costs.

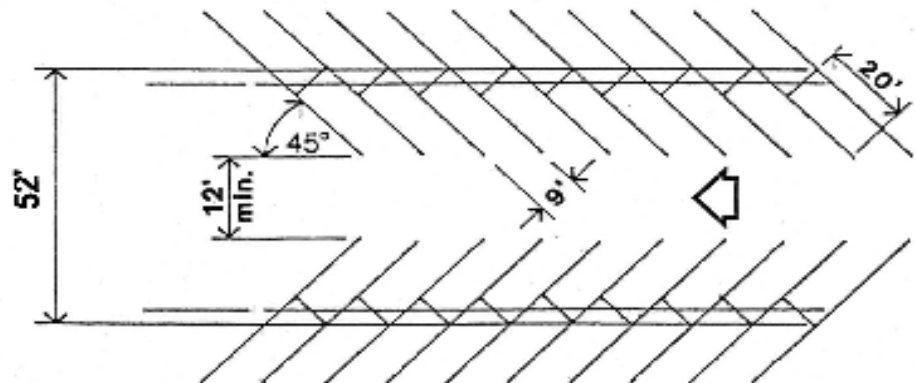
75 to 90  
degree



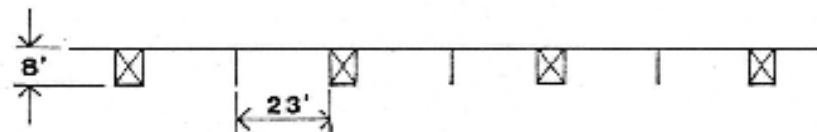
54 to 74  
degree



30 to 53  
degree



parallel



## PARKING LAYOUTS

**SECTION 11.07 OFF-STREET LOADING SPACE REQUIREMENTS.**

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, including department stores, wholesale stores, markets, hotels, hospitals, mortuaries, laundries, and dry cleaning establishments, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way and vehicular circulation on the site. Such spaces shall be provided as follows:

Gross Floor Area (In Square Feet)	Loading and Unloading Spaces	
	10'x 25' space	10'x 50' space
0 - 1,999	NA	NA
2,000 - 4,999	1	NA
5,000 - 19,999	NA	1
20,000 - 49,999	NA	2
50,000 - 79,999	NA	3
80,000 - 99,999	NA	4
100,000 - 149,999	NA	5
150,000 and over	NA	5*

\*One additional space for each fifty thousand (50,000) square feet of floor area in excess of one hundred fifty thousand (150,000) square feet.

- A. All loading spaces shall be located in the non-required rear yard and meet all minimum yard setback requirements for the district in which it is located in accordance with this Ordinance.
- B. Loading space areas shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent, durable and dustless surface.
- C. All loading spaces shall have a minimum of fourteen (14) foot high clearance.
- D. Loading areas shall not utilize any required area for maneuvering to parking spaces or block general vehicular circulation.
- E. No loading space shall be located closer than one hundred (100) feet from any residentially zoned district unless located within a completely enclosed building or enclosed on all sides facing a residential zoning district by a solid masonry wall not less than six (6) feet in height.

- F. Central loading facilities may be substituted for individual loading spaces serving businesses on separate lots provided that all of the following conditions are fulfilled:
1. Each business served shall have direct access to the central loading area without crossing streets or alleys.
  2. Total loading space provided shall meet the minimum requirements specified herein, computed on the basis of total floor area of all businesses served by the central loading space.
  3. No building served shall be more than 500 feet from the central loading area.
- G. The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles is prohibited in required loading space.

## **CHAPTER 12-NONCONFORMING USES AND STRUCTURES**

### **SECTION 12.01 INTENT**

Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this Ordinance or a subsequent amendment, but which were lawfully established prior to the time of adoption of the ordinance or amendment. Such nonconformities are declared by this Ordinance to be incompatible with the current or intended use of land in the district in which they are located.

Accordingly, the purpose of this Chapter is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.

### **SECTION 12.02 NONCONFORMING USES OF LAND**

A nonconforming use of land occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located.

Where, on the effective date of this Ordinance, or the effective date of an amendment of this Ordinance, a lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. **Expansion of Use.** No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- B. **Moving.** No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
- C. **Discontinuation of Use.** If such nonconforming use of land ceases for any reason for a period of more than twelve consecutive (12) months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located. In applying this Section to seasonal uses, the time during the off-season shall not be counted, provided that the off-season time for such uses is reported to the Township.

### **SECTION 12.03 CONTINUANCE OF NONCONFORMING USE OR STRUCTURE**

A nonconforming structure exists when the height, size, minimum floor area, or lot coverage of a structure or the relationship between an existing building and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. **Expansion of Structure.** Structures, or uses nonconforming by reason of height, yards, area, or parking provisions may be extended, altered or modernized provided that no additional encroachment of the height, yard, area or parking provisions are occasioned thereby.
- B. **Moving.** Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is relocated after it is moved.

#### **SECTION 12.04 ALTERATIONS, REPAIRS AND MAINTENANCE**

- A. **Protecting Public Safety.** Repairs or maintenance deemed necessary by the Building Inspector to keep a nonconforming building structurally safe and sound are permitted. However, if a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe and/or unlawful due to lack of maintenance and repairs and is declared as such by the Building Inspector, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.
- B. **Damage by Fire or other Natural Disaster.** Any nonconforming structure or building, but not a nonconforming use, that is damaged by fire, flood, wind or other natural means may be restored, and the conforming use or occupancy of such building or structure, or part thereof, which existed at the time of such destruction may be continued or resumed, provided that such restoration is started within a period of one year after the time of such damage or event and is diligently prosecuted to completion. A onetime extension of not more than one year may be granted upon review and approval of the Planning Commission. The granting of an extension will be based upon the applicant's capability to complete the project within the allowed time frame.
- C. **Enlargement & Extension Beyond Present Building Confines.** No nonconforming use of land, except residential dwellings, shall hereafter be enlarged or extended beyond its present building confines. A nonconforming use of land may however, be expanded or extended within its present building confines. Furthermore, a residential nonconforming use may be expanded or extended up to twenty-five (25) percent of the ground floor area of the existing residence

#### **SECTION 12.05 TOWNSHIP REMOVAL OF NONCONFORMING USES AND STRUCTURES.**

In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the Township, pursuant to

Public Act 110 of 2006 as amended, may acquire by purchase, condemnation or otherwise, private property for the purpose of removal of the nonconformity.

**SECTION 12.06 CHANGE IN TENANCY OR OWNERSHIP**

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises provided there is no change in the nature or character of such nonconforming uses except in conformity with the provisions of this Ordinance.

**SECTION 12.07 ENCUMBERING LAND REQUIRED TO SATISFY REGULATIONS**

No portion of a lot necessary for compliance with the provisions of this Ordinance in regard to area, height, bulk, and placement regulations in connection with an existing or proposed building, structure, or use, shall through sale or otherwise again be used as a part of the lot required in connection with any other building or structure or use.

**SECTION 12.08 UNLAWFUL NONCONFORMITIES**

No nonconformity shall be permitted to continue in existence if it was unlawful at the time it was established.

**SECTION 12.09 PLANS ALREADY FILED**

Where plans for a building have been filed which would conform with the zoning regulations then effective, but not with subsequently enacted regulations, and where a building permit for such building has been issued, such building may be erected provided construction is begun within three (3) months and diligently pursued to completion.



## **CHAPTER 13-ZONING ADMINISTRATION**

### **SECTION 13.01 ZONING ADMINISTRATION**

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator.

### **SECTION 13.02 ZONING ADMINISTRATOR**

The Zoning Administrator shall be appointed by the Township Board for a term subject to such conditions and at a rate of compensation as the Township Board shall determine. To be eligible for appointment to the post of Zoning Administrator, the applicant must have general knowledge of planning and competent understanding of the provisions of this Ordinance.

### **SECTION 13.03 PERMITS**

All buildings, structures or exterior or interior alterations over \$500 require a building permit. Building permits are issued by the Zoning Administrator as provided by the terms of the building code adopted by Monterey Township. The only buildings that are exempted are structures for agricultural use which require a zoning permit from the Zoning Administrator.

### **SECTION 13.04 CERTIFICATES OF OCCUPANCY**

No building or structure which is erected, moved, placed, reconstructed, extended, enlarged, or altered shall be used in whole or in part until the owner shall have been issued a certificate of use and occupancy as provided by the terms of the building code adopted by Monterey Township. No such certificate of occupancy shall be issued unless all the provisions of this Ordinance and all mechanical, electrical, and electrical codes have been complied with by the owner of the building or structure for which a certificate is sought. Buildings used for agricultural purposes do not require an occupancy permit.

## **CHAPTER 14-ZONING BOARD OF APPEALS**

### **SECTION 14.01 CREATION**

It is hereby created, under P.A. 110 of 2006 Michigan Zoning Enabling Act, the Monterey Township Zoning Board of Appeals, referred in this Ordinance as the “Zoning Board of Appeals.” The Zoning Board of Appeals shall be constituted and appointed as provided by Michigan Township Zoning Act and shall be comprised of a minimum of three (3) members. One member shall be a member of the Planning Commission. The Township Board may appoint not more than two (2) alternate members for the same term as regular members. A regular or alternate member may be a member of the Township Board. An alternate member may be called to serve as a member of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings or if a regular member is recused because a conflict of interest.

### **SECTION 14.02 INTENT**

The purpose of this Chapter is to provide guidelines and standards to be followed by the Zoning Board of Appeals (ZBA) to act on matters where this Ordinance or state law gives jurisdiction to the ZBA.

### **SECTION 14.03 ADOPTION OF RULES AND PROCEDURES**

The Zoning Board of Appeals shall establish fixed rules and regulations governing its procedures, meetings, operations, and actions. Said rules shall be made available to the public and shall be in conformance with the provisions of this Ordinance and the Michigan Zoning Enabling Act.

### **SECTION 14.04 JURISDICTION OF THE ZONING BOARD OF APPEALS**

#### **A. General Authority**

The ZBA shall have the authority to act on those matters where this Ordinance provides for administrative review/appeal, interpretation, or appeal of a special use permit decision, and shall have the authority to authorize a variance as defined in this Ordinance and laws of the State of Michigan. Such authority shall be subject to the rules and standards in this Section. The ZBA shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this Ordinance.

#### **B. Administrative Review**

The ZBA shall have authority to hear and decide appeals where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made by an official, board or commission in carrying out or enforcing any provisions of this Ordinance.

#### **C. Interpretation**

The ZBA shall have authority to hear and decide appeals or requests for interpretation of the Zoning Ordinance, including the zoning map. The ZBA shall make such decisions so that the spirit and intent of this Ordinance shall be observed. Text interpretations shall be limited to the issues presented, and shall be based upon a reading of the Ordinance as a whole, and shall not have the effect of amending the Ordinance. Map and boundary interpretations shall be made based upon rules in the Ordinance, and any relevant historical information. In carrying out its authority to interpret the Ordinance, the ZBA shall consider reasonable and/or practical interpretations which have been consistently applied in the administration of the Ordinance. Prior to deciding a request for an interpretation, the ZBA may confer with staff and/or consultant to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the Ordinance. Such authority shall include interpretation of whether a use is permitted in a given zone, or determination of off-street parking and loading requirements for any use not specifically listed.

**D. Variances**

The ZBA shall have authority in specific cases to authorize one or more variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e., height, bulk, setback) requirements of the Ordinance. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The ZBA is not authorized to grant use variances by this Ordinance. Such authority shall be exercised in accordance with the following standards:

1. The ZBA may grant a requested “non-use” variance only upon a finding that practical difficulties exist. A finding of practical difficulties shall require demonstration by the applicant of all of the following:
  - a. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with the Ordinance conformity unnecessarily burdensome.
  - b. The variance will do substantial justice to the applicant, as well as to other property owners.
  - c. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
  - d. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in

the same zoning district.

- e. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.

2. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings. Administrative officials and other person may, but shall not be required to, provide information, testimony and/or evidence on a variance request.

**E. Conditions**

The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request. The conditions may include requirements necessary to achieve any of the following:

1. 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.
2. To protect the natural environment and conserve natural resources and energy
3. To insure compatibility with adjacent uses of land
4. To promote the use of land in a socially and economically desirable manner.

Conditions imposed shall meet the following requirements:

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

Conditions imposed with respect to the approval of a variance shall be recorded as part of the ZBA minutes, and shall remain unchanged except upon the mutual consent of the ZBA and the landowner following notice and hearing as required in a new case. The breach of any such conditions shall automatically invalidate the permit granted.

**SECTION 14.05 APPLICATION AND NOTICES**

**A. Application**

All applications to the ZBA shall be filed with the Township Zoning Administrator, on forms provided by the Township, and shall be accompanied by the applicable fee established by resolution of the Township Board. Applications shall include a completed application form, fee, all plans, studies and other information and data to be relied upon by the applicant.

**B. Site Plan**

A site plan shall be required with all variance requests. The plan shall be to scale and include all property lines and dimensions; setbacks; bearings of angles correlated with the legal description and a north arrow; all existing and proposed structures and uses on the property and abutting lots and parcels, dimensions of the structures and their dimensioned locations; lot area calculations necessary to show compliance with the regulations of this Ordinance. Where an application provides a variance sought in conjunction with a regular site plan review, a site plan prepared according to Section 10.24 shall satisfy the requirements of this section.

The ZBA shall have the authority to require a land survey prepared by a registered land surveyor or registered engineer when the ZBA determines it to be necessary to insure accuracy of the plan.

The ZBA shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed; including relevant plans, studies and other information.

**C. Application Involving an Appeal of Administrative Order**

In a case involving an appeal from an action of an administrative official or entity, the Township Clerk shall transmit to the ZBA copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.

**D. Consent of Property Owner Required**

Application to the ZBA shall be made with the full knowledge and written consent of all owners of the property in question, acknowledged by the owner(s) on the application. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.

**E. Notice**

The Township shall publish a notice in a newspaper of general circulation in Monterey

Township not less than fifteen (15) days before the public hearing. The notice shall also be sent by mail or personal delivery to the owners of property for which the notice is being considered. Notice shall be sent to all persons to whom real property is assessed within 300 feet of the property and to occupants of all structures within 300 feet regardless of whether the property or occupant is located in Monterey Township.

The notice shall be given not less than 15 days before the date the application for a variance will be considered. The notice shall contain:

1. A description and nature of the request.
2. An indication of the property that is the subject of the request.
3. A statement of when and where the request will be considered.
4. An indication of when and where written comments regarding the request will be received.

If the request does not involve a specific parcel, only publication and notification of the person making the request are required.

**F. Stay of Proceedings**

An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property. If such certification is made, proceedings shall not be stayed unless specifically determined by the ZBA, or by a court of competent jurisdiction.

**G. Decision by the Zoning Board of Appeals**

The concurring vote of a majority of the membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board or commission made in the enforcement of this ordinance, to decide in favor of an applicant on any matter upon which the ZBA is required to pass under this ordinance, or to grant a variance from the terms of this ordinance. A ZBA member may not vote on the same matter they have voted on as a Planning Commission member. However, they may vote on an unrelated matter for the same property. A decision shall be made upon each case within sixty (60) days after a request or appeal has been filed with the Board unless additional time is agreed upon with the parties concerned.

**SECTION 14.06 DISPOSITION AND DURATION OF APPROVAL**

**A. ZBA Powers**

The ZBA may reverse, affirm, vary or modify any order, requirement, decision, or

determination presented in a case within the ZBA's jurisdiction, and to that end, shall have all of the powers of the officer, board or commission from whom the appeal is taken, subject to the ZBA's scope of review, as specified in this Ordinance and/or by law. The ZBA may remand a case for further proceedings and decisions, with or without instructions

**B. Decision Final**

A decision by the ZBA shall not become final until the expiration of twenty-one (21) days from the date of entry of such order and service of the same upon the parties concerned unless the ZBA shall find the immediate effect of such order is necessary for the preservation of property or personal rights or public safety and shall so certify on the record. To the extent that decisions are requested or required to be in writing, the minutes of the ZBA meeting, and decision, as proposed under supervision of the secretary, shall constitute the written decision.

**C. Period of Validity**

Any decision of the ZBA favorable to the applicant shall remain valid only as long as the information and data relating to such decision are found to be correct, and the conditions upon which the decision was based are maintained. The relief granted by the ZBA shall be valid for a period not longer than one year, unless otherwise specified by the ZBA, and within such period of effectiveness, actual, on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or the grant of relief shall be deemed void.

**D. Record of Proceedings**

The secretary of the ZBA shall prepare and keep minutes of the ZBA proceedings, showing the findings, decisions, conditions, if any, and votes of each member in each case, including a member's absence or failure to vote. The minutes shall be the responsibility of the secretary of the ZBA, and shall be subject to approval of the ZBA. To the extent that a written decision in a case is requested or required, the minutes, prepared under the supervision of the ZBA secretary, along with the plan submitted, shall serve as the written decision, even if the minutes are awaiting final ZBA approval. The official records of the ZBA proceedings shall be filed with the Township Clerk and shall be public records.

**E. Appeal of a ZBA Decision**

Appeals of a ZBA decision may be taken to Allegan County Circuit Court at the discretion of the applicant. An appeal shall be filed within thirty (30) days after the ZBA issues its decision in writing, signed by the chairman or members of the ZBA or within twenty-one (21) days after the approval of the minutes.

**F. New Application for Variance**

If the ZBA denies a request for a variance, the decision of the ZBA shall not be subject to reconsideration for a period of 365 days, whereupon the applicant may submit a new application for the variance. However, the ZBA may waive the one year period if conditions upon which their original decision was made change, or if information relating to their original decision are found to be incorrect or inaccurate.

**G. Site Plan Requirements**

If an application or appeal to the Zoning Board of Appeals involves a development project which requires a recommendation of site plan approval by the Planning Commission, the applicant or appellant shall first apply for site plan approval as set forth in Section 10.24 “Site Plan Review”. The Planning Commission shall review the site plan and shall determine the layout and other features required before granting a recommendation of approval of the site plan. The Planning Commission shall then transmit a copy of the site plan and the Planning Commission’s findings thereon to the Zoning Board of Appeals. The Zoning Board of Appeals does not provide additional review to the site plan; it is submitted for information purposes as the Zoning Board of Appeals considers the requested variance for the development project.



## **CHAPTER 15-AMENDMENTS TO THE ZONING ORDINANCE AND MAP**

### **SECTION 15.01 STATEMENT OF INTENT**

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the Township, this Ordinance shall not be amended except to correct an error in the Ordinance or, because of changed or changing conditions in a particular area or in the Township generally, to rezone an area, to extend the boundary of an existing District or to change the regulations and restrictions thereof. Such amendment to this Ordinance may be initiated by any person, firm, or corporation by filing an application with the Zoning Administrator; by motion of the Township Board; or by the Planning Commission requesting the Zoning Administrator to initiate an amendment procedure. The procedures for amending this Ordinance shall be in accordance with P.A. 110 of 2006 the Michigan Zoning Enabling Act as amended.

### **SECTION 15.02 AMENDMENT PROCEDURE**

A. **Application.** Applications for amendments to this Ordinance shall be filed with the Zoning Administrator on an appropriate form provided by the Township and accompanied by the required fee. All applications for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:

1. The applicant's name, address and interest in the application as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
2. The nature and effect of the proposed amendment.
3. If the proposed amendment would require a change in the Zoning Map, a complete legal description of the entire land area affected, the present zoning classification of the land, the names and addresses of the owners of all land within the area requested to be rezoned. Also, a fully dimensioned drawing shall be submitted showing the land which would be affected, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration, and the location of all existing and proposed buildings.
4. If the proposed amendment will correct an alleged error, a detailed explanation of such alleged error and detailed reasons the proposed amendment will correct the same.
5. The changed or changing conditions in the area or in Monterey Township that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.

6. All other circumstances, factors and reasons which applicant offers in support of the proposed amendment.

**B. Receipt of Application.** The Zoning Administrator, upon receipt of an application to amend the Ordinance, shall review the application for completeness and refer same to the Planning Commission for study and report. The Planning Commission shall cause a complete study of the proposed amendment and hold a public hearing in accordance to Subsection (c) below.

**C. Public Hearing.** Notice of the public hearing for an amendment to this Ordinance shall be given by publishing said notice in a newspaper of general circulation in the Township stating the time and place of such hearing and the substance of the proposed amendment. These notices shall appear in said newspaper not less than 15 days prior to the date set for the public hearing. Such notice shall also be mailed to each public utility company and railroad company owning or operating any public utility or railroad within the zoning districts affected by the proposed amendment that registers its name and mailing address with the Township for the purpose of receiving such notice. The Township Clerk shall maintain an affidavit of such mailing.

In addition to the above, if an individual property or several adjacent properties are proposed for rezoning, the Township shall give a written notice of the public hearing to the owner(s) of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all dwellings within three hundred (300) feet regardless of whether the occupants are within Monterey Township. The notice shall state the time, place, date, and purpose of the hearing. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission before the hearing. The notice shall be mailed or delivered not less than fifteen (15) days before the hearing.

**D. Planning Commission Recommendation.** Following the public hearing, the Planning Commission shall prepare a report and its recommendations regarding the proposed amendment, and transfer such to the Township Board.

**E. Township Board Action.** After the Planning Commission has held a Public Hearing and has made a written report to the Township Board indicating their recommendation on the proposed amendment, the Township Board may adopt the proposed amendment, decline to adopt the proposed amendment, or may adopt it in whole, part, or with or without additional changes. The Board may also hold a public hearing on the proposed amendment or refer the proposed amendment back to the Planning Commission for further study and review or for additional public hearings.

**SECTION 15.03 PROTESTS.**

Upon the filing of a notice of intent to request a referendum, the effective date of an amendment shall be either thirty (30) days after publication, if a petition is not filed or the petition lacks adequate signatures, or after approval by the electors if an adequate petition is filed.

Within 30 days following the adoption of an amendment to the Zoning Ordinance, a petition signed by a number of qualified and registered voters residing in the unincorporated portion of Monterey Township equal to not less than 15 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected may be filed with the Office of Township Clerk requesting therein for the submission of the amendment to the electors residing in the unincorporated portion of Monterey Township for their approval.

**SECTION 15.04 CONFORMANCE TO COURT DECREE**

Any amendment for the purpose of conforming to a provision of a decree of a court of competent jurisdiction as to any specific lands may be adopted by the Township Board and the notice of amendment published without referring same to any other board or agency.

**SECTION 15.05 CONDITIONAL ZONING**

When submitting an application for a rezoning, an applicant may voluntarily propose conditions regarding the request for the use and development of the land as part of the rezoning request.

A. Application Contents

1. An applicant for a rezoning change may voluntarily offer in writing conditions relating to the use and/or development of the subject property. This offer may be made either at the time the application is filed or may be made at a later time during the rezoning process.
2. The application process shall be the same at that of considering requests made without conditions.
3. The applicant's offer of conditions may not request land uses or developments not permitted in the new zoning district.
4. Any use or development proposed as part of an offer of conditions that would require a special use permit under the terms of this Ordinance may only begin if a special use permit has been granted by the Township.
5. If the use or development requires a variance by the Zoning Board of Appeals, the use or development cannot begin until the variance has been granted.

6. If the proposed use or development requires site plan approval, the use or development cannot begin until the site plan has been approved.
7. The offer of conditions may be amended during the process of rezoning provided that any amended or additional conditions are voluntarily made by the applicant. An applicant may withdraw all or part of the conditions at any time during the rezoning process.
8. The Planning Commission may recommend approval, approval with conditions, or denial of the rezoning application. However any recommended changes must be approved by the applicant.
9. After receipt of the Planning Commission's recommendation, the Township Board may approve or deny the rezoning application. If the Township Board considers amendments to the proposed conditional rezoning application to have merit, and they are acceptable to the applicant, the Township Board shall refer such amendments to the Planning Commission for comment and proceed with the rezoning application to deny or approve the conditional rezoning request with or without amendments.
10. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the applicant. The Statement of Conditions shall:
  - a.) Be in a form recordable with the Allegan County Register of Deeds or in a form acceptable to the Township.
  - b.) Contain a legal description of the subject land.
  - c.) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding on successor owners of the land.
  - d.) Incorporate the attached or reference any drawings approved by the applicant and the Township.
  - e.) Incorporate a statement acknowledging that the Statement of Conditions may be recorded by the Township with the Allegan County Register of Deeds.
  - f.) Contain notarized signatures of all owners of the subject land preceded by a statement attesting to the fact that they voluntarily offered and consented to the provisions of the Statement of Conditions.
11. When the rezoning takes effect, the Township Clerk shall amend the zoning map to reflect that the subject land contains special conditions.

12. The use of the land shall conform to all of the requirements regulating its use and development.
13. If an approved use and/or development does not occur within the time frame specified in the Statement of Conditions, the land shall revert back to its former zoning classification. The rezoning back to its former classification shall be initiated by the Township Board.

**CHAPTER 16-VIOLATIONS AND PENALTIES**

**SECTION 16.01 VIOLATIONS AND PENALTIES**

A. Nuisance Per Se. Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which is begun, continued, or changed in violation of any term or provision of this Ordinance is hereby declared to be a nuisance per se subject to abatement pursuant to MCL 125.3407 and as otherwise provided by law.

B. Violation. Any person who violates, disobeys, neglects, or refuses to comply with any provision of this Ordinance, any administrative decision made under the Ordinance, or any permit or approval issued under this Ordinance , including any conditions, imposed thereon, or who causes, allows, or consents to any of the same, shall be deemed to be responsible for the violation of this Ordinance. Any person responsible for a violation of this Ordinance whether as an owner (by deed or land contract) lessee, licensee, agent, contractor, servant, employee, or otherwise shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.

C. Municipal Civil Infraction. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
1st offense	\$75	\$500
2nd offense	\$150	\$500
3rd offense	\$325	\$500
4th or more	\$500	\$500

Additionally, the violator shall pay the costs which may include all expenses, direct and indirect, which Monterey Township has incurred in connection with the infraction. In no case shall costs of less than \$9.00 be ordered.

D. Remedial Action. Any violation of this Ordinance shall constitute a basis for injunctive relief or other appropriate remedy in any court of competent jurisdiction to compel compliance with this Ordinance and enforce the provisions thereof.

**CHAPTER 17-SEVERABILITY AND EFFECTIVE DATE**

**SECTION 17.01 SEVERABILITY**

Should any section, clause, or provision of this Ordinance be declared unconstitutional, illegal or of no force and effect by a court of competent jurisdiction then and in that event such portion thereof shall not be deemed to affect the validity of any other portion of this Ordinance.

**SECTION 17.02 EFFECTIVE DATE AND REPEAL OF OTHER ORDINANCES**

This Ordinance shall take effect \_\_\_\_\_, following adoption. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Monterey Township Clerk \_\_\_\_\_