

# **MONTCALM TOWNSHIP ZONING ORDINANCE**

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*Amended May 13, 2015*

Prepared under the direction of the  
**MONTCALM TOWNSHIP  
PLANNING COMMISSION**  
and  
**TOWNSHIP BOARD**

By  
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**Montcalm Township  
Montcalm County, Michigan**

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**Montcalm Township  
County of Montcalm, State of Michigan**

**ORDINANCE NO. 2013-1  
ZONING ORDINANCE**

**An Ordinance enacted by Montcalm Township under Public Act 110 of 2006, the Michigan Zoning Enabling Act, to regulate the use and development of land and provide for the establishment of districts within which specified land use and development may occur including restrictions and requirements for structures, buildings, yards, and development densities, and to establish a permitting system to ensure reasonable review and authorization of land uses and development including the issuance of permits, appeals of decisions, and penalties for violations.**

**THE MONTCALM TOWNSHIP BOARD ORDAINS:**

**Article 1  
TITLE and PURPOSE**

**Section 1.1 Title**

This Ordinance shall be known and cited as the Montcalm Township Zoning Ordinance.

**Section 1.2 Purpose**

It is the purpose of this Zoning Ordinance to regulate the use of land and structures to meet the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land in accordance with the land's character and adaptability, to ensure that the use of land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, to promote public health, safety, and welfare including the conservation of property values and natural resources including wooded areas, wetlands, and water resources, to implement the goals, objectives and policies of the Montcalm Township Master Plan adopted pursuant to the Township Planning Act, Public Act 168 of 1959, as amended, and to advance all other purposes as authorized by the Michigan Zoning Enabling Act.

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**End of Article 1**

**Article 2**  
**GENERAL ADMINISTRATION, ENFORCEMENT, and PENALTIES**

**Section 2.1 Purpose**

It is the purpose of this Article to provide for the administration and enforcement of this Ordinance, including the creation of a review and permit process. The primary permit process shall require the issuance of a Zoning Permit which shall indicate that the uses and plans for which the permit is requested comply with this Ordinance. Upon the issuance of a Zoning Permit, the applicant may establish the use for which the permit has been issued, including the erection of a building or structure, provided a Building Permit has been obtained from the Building Inspector demonstrating conformance to the requirements of the Construction Code. For single family and two-family dwellings, a Building Permit may simultaneously serve as a Zoning Permit.

**Section 2.2 Zoning Permit Required**

**A. Permit Required/Conformance to Ordinance:** Except as provided in subsection (B) below, no grading or excavation shall be initiated, no fence, wall, structure or building shall be erected, altered, or moved, and no land or building shall be used or undergo a change in use as delineated in the Permitted Uses tables of Article 3 until the Zoning Administrator has issued a Zoning Permit that shall signify the proposed activity conforms to the requirements of this Ordinance and, where required by state law, the Building Inspector certifies proposed structures and buildings comply with the Construction Code through the issuance of a Building Permit. A Zoning Permit shall be on a form established for such purpose and the completed form shall identify the specific use authorized, the drawings that graphically portray the proposed alterations and improvements to the property, and any conditions made part of such permit. No Zoning Permit or Building Permit shall be issued for any structure, building or use of land where the use, construction, addition, or alteration would be in violation of this Ordinance. See Section 2.4 regarding application review procedures.

1. In the case of a single-family or two-family dwelling, a Building Permit may simultaneously serve as a Zoning Permit. However, any Building Permit application that is to simultaneously serve as an application for a Zoning Permit shall include all information required by this Ordinance for a Zoning Permit, in addition to any information that may be necessary to conform to the Construction Code for Building Permit approval.

**B. Zoning Permit Exemption:**

1. A Zoning Permit shall not be required for any building or structure that is less than one hundred (100) square feet in area and not permanently attached to the property, such as in the case of, by example, the absence of a foundation, footing, or attachment to another building or structure with a foundation or footing.
2. A Zoning Permit shall not be required for repairs or maintenance to an existing building or structure provided no change is made to the location of an exterior wall and such alterations are in compliance with all requirements and standards of this Ordinance. A Building Permit may be necessary for such an alteration.

**Section 2.3 Responsibility for Administration**

**A. General Administration:** The administration and enforcement of this Ordinance shall be the responsibility of the Township Board, the Planning Commission, the Zoning Board of Appeals, and such personnel as designated by the Township Board in accordance with P.A. 110 of 2006, as amended, and this Ordinance. The Township Board shall appoint a Zoning Administrator who shall act as an officer in the administration and enforcement of this Ordinance. The Zoning Administrator may simultaneously serve as the Building Inspector.

**B. Duties of the Zoning Administrator:** Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance while carrying out the duties prescribed herein. The Zoning Administrator shall perform the duties specified in this Ordinance including, at a minimum:

1. Review Applications: Undertake and/or assist in the review of Zoning Permit applications and other applications made under this Ordinance, including applications for plot plans, site plans, special land use approvals, and variances.
2. Issue Zoning Permits: Issue Zoning Permits and other approvals when all provisions of this Ordinance have been met and the necessary approval has been granted by the proper body or official.
3. File of Applications: Maintain files of all applications submitted under this Ordinance, action on such applications, and any performance guarantees associated with permits. These files shall be open for

- public inspection.
4. Inspections and Violations: Assist in the investigation and resolution of violations of this Ordinance including inspections of buildings or premises to investigate, monitor and ensure conformance with this Ordinance.
  5. Record of Complaints: The Zoning Administrator shall keep a record of any complaint of a violation of this Ordinance and of the action taken consequent to each complaint, and shall provide the Township Clerk with a copy of such records. Such records shall be open for public inspection.
  6. Reports: The Zoning Administrator shall report to and attend meetings of the Planning Commission, Zoning Board of Appeals, and Township Board, as requested by such bodies, on activities pertaining to the issuance of permits, complaints of violation, actions taken on such complaints, and other Ordinance administrative and enforcement matters as may arise. The Zoning Administrator shall prepare an annual report to the Township Board regarding permits, violations, and related Ordinance matters.

## Section 2.4 Zoning Permit Application and Review Procedures

**A. General Application and Review Procedures:** An application for a Zoning Permit shall be available from the Zoning Administrator. Upon approval of the application, which is to include, at a minimum, the application form and all required supporting data and documents including a plot plan or site plan, a Zoning Permit shall be issued. Whenever the Zoning Administrator determines an application for a single-family or two-family dwelling and accessory uses and structures is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue the Zoning Permit. Zoning Permit applications for uses, buildings and structures not associated with a single-family or two-family dwelling shall be issued by the Zoning Administrator only after the designated approving body directs the Zoning Administrator to do so. Such designated approving body shall be the Planning Commission except in the case of a special land use application, in which case the Township Board shall be the approving body after receipt of a Planning Commission recommendation.

1. Plot Plan / Site Plan: An application for a Zoning Permit shall include the submittal of a plot plan or site plan. An application for a single family or two-family dwelling and accessory structures thereto, shall include the submittal of a plot plan according to subsection (B) below. A site plan shall be required for all other uses, structures and buildings and shall be prepared according to Article 14 (Site Plan Review). Upon approval of the plot plan or final site plan, a Zoning Permit shall be issued except as may be provided otherwise in this Ordinance. See Article 14 for detailed site plan review regulations which provide for Planning Commission review and approval except in the case of a special land use in which case the Township Board shall take final action on such site plan after receipt of a Planning Commission recommendation.
2. Special Land Uses: In addition to meeting the site plan requirements of Article 14, a Zoning Permit application for a use classified as a "special land use" according to Permitted Uses tables of Article 3 shall be processed according to the provisions of Article 15 (Special Land Uses), which require Township Board action after receipt of a Planning Commission recommendation.
3. Variances: Where the approval of a variance by the Zoning Board of Appeals pursuant to Article 16 is necessary for the approval of a proposed plot plan or site plan, no plot plan or site plan shall be approved nor shall such project be issued a Zoning Permit until action on such variance request has been taken by the Zoning Board of Appeals.
4. Incomplete Applications: If Zoning Permit application materials are not administratively complete when received by the body that is to take action on the application, the body may deny such application or otherwise delay action on the application until it is made complete in a readily comprehensible manner.
5. Performance Guarantees: A performance guarantee may be required as a condition to the issuance of a permit in order to ensure conformance with the requirements of this Ordinance (see Section 2.6).
6. Permit Refusal in Writing: In any case where a Zoning Permit or other approval requested under this Ordinance is refused, the reasons shall be provided to the applicant in writing.

### B. Single Family and Two-Family Dwellings/Plot Plan Approval

1. Application Required: Application for a Zoning Permit for a single family or two-family dwelling, including alterations and accessory structures and buildings thereto, shall be submitted to the Zoning Administrator on a form for that purpose. See Section 2.2(B) for exceptions. Three (3) copies of all application materials shall be submitted and shall consist of:
  - a. The completed application form, and all permit applications, approvals and supporting documents associated with required state or federal permits.
  - b. An accurate, readable, drawing of scale not less than 1" = 100', constituting a plot plan, identifying the following:
    - 1) Name, address and telephone number of the applicant (and owner if different).
    - 2) A scaled property line survey showing property dimensions, bearings, lot area, legal

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- description, and an arrow pointing north.
- 3) The location and footprint of existing structures, and the location, height, footprint and scaled floor plans of proposed structures to be erected, altered, or moved on the lot. See definition for "building height" in Article 21.
  - 4) Distances of buildings and structures from lot lines.
  - 5) A description of proposed use(s) of the building(s), land and structures.
  - 6) Configuration of the driveway and parking areas.
  - 7) Existing public and private right-of-ways and easements.
  - 8) Existing and/or proposed location of septic drain field and potable water well.
  - 9) In the case of a corner lot, the designated side and rear yard.
  - 10) Any other information deemed necessary by the Zoning Administrator to determine Ordinance compliance and provide for the enforcement of this Ordinance.
2. **Application Review:** The Zoning Administrator shall review the Zoning Permit application and plot plan and determine their conformity with the provisions of this Ordinance including requirements pertaining to lot area, lot width, setbacks, building height, and permitted uses.
  3. **Action on Application:** After conducting a review, the Zoning Administrator shall reject, approve, or conditionally approve the plot plan as it pertains to requirements and standards contained in this Ordinance. The applicant shall be notified in writing of the Zoning Administrator's action on the application including any conditions associated with an approval. The decision by the Zoning Administrator shall be made within fifteen (15) days of the receipt of a complete plot plan application including copies of all required county, state and federal applications and permits. See Section 2.4(C)(1) below regarding withholding of approval. A plot plan shall be approved if it contains the information required by, and is in compliance with this Ordinance.
  4. **Approved Plot Plans:** At least two (2) copies of an approved plot plan, with any conditions contained within, shall be maintained as part of the Township records for future review and enforcement. One (1) copy shall be returned to the applicant. For identification of the approved plans, each copy shall be signed and dated with the date of approval by the Zoning Administrator. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the Township records as a part of the plot plan and delivered to the applicant.
  5. **Plot Plan Changes:** The Zoning Administrator shall review proposed changes to an approved plot plan in the same manner as an original plot plan application.

### C. Permit Withholding, Expiration, and Revocation.

1. **Withholding Permit:** Where this Ordinance grants approval authority to a specific body, as in the case of plot plan approval by the Zoning Administrator and variance approval by the Zoning Board of Appeals, the designated approving body may withhold approval of an application pending verification that an applicant has received required county, state or federal permits including but not limited to sewage disposal and potable water permits, soil erosion and sedimentation control permits, flood plain permits, and MDEQ permits for alteration of wetlands. Similarly, the Zoning Administrator, Zoning Board of Appeals, Planning Commission or Township Board may condition its approval of the requested application on which it is required to act upon the receipt of any of the above mentioned county, state or federal approvals or withhold the issuance of a Zoning Permit until said permits from other agencies have been obtained.
2. **Expiration of Permit:** A Zoning Permit shall become null and void after one (1) year from the date of its issuance unless the development or activity authorized has passed its first building inspection by the Building Inspector, provided however, that the body which approved such permit may waive or extend the period of time in which the permit is to expire for a single period of no greater than 180 days if it is satisfied that the owner is maintaining a good faith intention to proceed with construction. Upon expiration, the permit shall be renewable only upon reapplication.
3. **Revocation:** A body which grants approval of a permit or application under this Ordinance, such as in the case of a Zoning Administrator's approval of a plot plan and the Township Board's approval of a Special Land Use application, may revoke or cancel such approval in the case of failure or neglect to comply with this Ordinance, or in the case of any false statement or misrepresentation made in the application.
  - a. Prior to the revocation of a permit for any use or building subject to site plan approval, the body which approved such permit shall hold a hearing on such revocation. The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on the revocation. At the hearing, the body holding the hearing shall state the basis for the revocation and the permit holder shall be given the opportunity to present evidence and testimony against such

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revocation.

- b. Following the hearing, the approving body may revoke the permit, delay such revocation for a specified time period to permit the permit holder time to correct specified violations, or find there is no basis for such revocation.
- c. Upon permit revocation, or in the case where revocation is delayed to correct violations, all further construction and usage shall cease other than for the purpose of correcting violations, unless specifically provided for otherwise by the revocation body. Failure to comply with a revocation order is declared to be a nuisance per se and a violation of this Ordinance.

### Section 2.5 Building Permit / Permit of Occupancy Required

**A. Building Permit:** No driveway or any other grading, excavation, or construction shall be initiated prior to the issuance of a Zoning Permit and, where required by state law, the Building Inspector certifies proposed structures and buildings comply with the Construction Code through the issuance of a Building Permit.

**B. Occupancy Permit:** No structure or use shall be occupied, in whole or in part, without first receiving a permit for occupancy from the Building Inspector pursuant to the Construction Code.

### Section 2.6 Performance Guarantee for Compliance

**A. Purpose:** In authorizing any Zoning Permit or granting other approvals under this Ordinance other than a single-family or two-family dwelling and accessory structures and uses thereto, the approving body for such permit or approval may require that a performance guarantee be furnished to ensure compliance with the requirements, specifications and conditions imposed with the granting of such permit or approval.

**B. Requirements of Guarantee:** The performance guarantee shall meet the following requirements:

1. Improvements Covered: Improvements that shall be covered by the performance guarantee include those features of a project that are considered necessary by the body or official granting approval to protect the natural resources or the health, safety and welfare of residents of the Township and future users or inhabitants of the proposed project area including roadways, lighting, utilities, sidewalks, screening and drainage. In no case shall any portion of a performance guarantee be required for improvements intended to serve the public at large versus users of the development site, or for facilities or improvements that are likely to result in public ownership or responsibility.
2. Form: The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, or surety bond, acceptable to the Township Treasurer, which names the property owner as the obligor and the Township as the obligee. If appropriate, based on the type of performance guarantee submitted, the Township shall deposit the funds in an account in a financial institution with which the Township regularly conducts business.
3. Amount and Time Required: The amount of the performance guarantee shall be equal to the estimated cost of improvements for which the performance guarantee is to cover, according to a detailed cost estimate submitted by the applicant and found satisfactory by the approving body. After approval of the cost estimate, the performance guarantee shall be submitted at the time of issuance of the permit authorizing the approved use or construction. No performance guarantee shall be required prior to the date on which the Township is prepared to issue the Zoning Permit.

**C. Return of Performance Guarantee:** The following procedure shall be followed in the return of performance guarantees:

1. Request for Payment: As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator of completion of said improvements. Thereupon, the Zoning Administrator shall inspect said improvements and shall transmit a recommendation to the Township Board indicating either approval, partial approval, or rejection of the improvements with a statement of the reasons for any rejection. If partial approval is indicated, the cost of the improvement or condition rejected shall be set forth.
2. Approval of Payment: The Township Board shall either approve, partially approve or reject the return of the performance guarantee for the improvements or conditions, after consideration of the recommendation of the Zoning Administrator's written statement, and shall notify the obligor in writing of the action of the Township Board within forty-five (45) days after receipt of the notice from the obligor of the completion of improvements. Where approval or partial approval is granted, the Township Clerk shall release the approved payment to the applicant. The portion of the performance guarantee to be returned shall be proportional to the work completed and shall be based on the itemized cost estimate for the applicable improvement.

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3. Lack of Full Completion: Should installation of improvements fail to meet full completion based on the approved site plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the Township may complete the necessary improvements or conditions itself or by contract to an independent contractor, and assess all costs of completing the improvements or conditions against the performance guarantee. Any balance remaining shall be returned to the applicant.

### Section 2.7 Timely Action on Applications

**A.** All approvals applied for under this Ordinance shall be acted upon in a timely manner. However, in no case shall the matter of a timely decision undermine the intent of this Ordinance that all requested approvals undergo the necessary and adequate review to ensure all requirements and standards have been met and the public health, safety and welfare is preserved.

**B.** The following time provisions shall apply unless specifically provided otherwise by this Ordinance or special circumstances arise such as delays associated with the acquisition of county, state or federal permits, the submittal of an incomplete application, the need to submit additional application materials following initial deliberations, or unforeseeable practical delays in distributing applications to the necessary review bodies. The prescribed review periods below require that an application must be received by the Zoning Administrator at least thirty (30) days prior to the meeting when the Planning Commission would normally begin deliberation on such application and, if submitted within a lesser time, the Planning Commission may delay initiating deliberations until its next regularly scheduled meeting or special meeting called for the purpose of deliberating said application.

1. Applications Requiring Zoning Administrator Action: A complete application for a Zoning Permit for a single-family or two-family dwelling or an accessory structure or use thereto shall be acted upon by the Zoning Administrator within fifteen (15) days of the submittal of the complete application.
2. Applications Requiring Planning Commission Action: Action by the Planning Commission on an application, as in the case of acting on a site plan or a recommendation to the Township Board regarding an application for special land use approval or an amendment petition, shall occur within one-hundred (100) days of the submittal of a complete application with the Zoning Administrator. Where a public hearing is required to be held by the Planning Commission, this time frame shall be extended by thirty (30) days.
3. Applications Requiring Township Board Action: Where this Ordinance requires the Township Board to approve, deny, or conditionally approve an application, as in the case of a special land use application or rezoning petition, the Township Board shall take action on the application within sixty-five (65) days of the Planning Commission's recommendation. Where a public hearing is required to be held by the Township Board, this time frame shall be extended by thirty (30) days.
4. Applications Requiring Zoning Board of Appeals Action: Where the Zoning Board of Appeals is required by this Ordinance to act upon a request for a variance, ordinance interpretation, administrative appeal, or other request as provided by this Ordinance, the Zoning Board of Appeals shall take action on the request within sixty-five (65) days of the receipt of a complete application.
5. Public Hearing Notices: See Section 2.11.

### Section 2.8 Application Fees

**A. Application Fees Required**: Fees for the administration and review of development proposals, rezoning requests, actions before the Zoning Board of Appeals, inspections and the issuance of permits required under this Ordinance shall be deposited with the Township Treasurer in advance of processing any application. The amount of such fees shall be established by the Township Board by resolution and may be revised from time to time. Such fees shall be limited to covering actual costs incurred by the Township and may include but are not limited to costs associated with conducting meetings and inspections, public notices, postage, photocopying, staff time, mileage, and any costs associated with assistance provided by qualified professionals including planners, engineers, and/or attorneys.

**B. Professional Review and Fee**: For any application for a Zoning Permit, variance, or other approval under this Ordinance, the reviewing body may require the payment of a professional review fee when professional input is desired before a decision is made, due to the character or complexity of the proposal or concern over the potential impacts of the project. The applicant is entitled to a refund of any unused professional review fee. If actual professional review costs exceed the amount of the fee, the applicant shall pay the balance due prior to final action on such application. A professional review shall result in a report to the Township indicating the extent of conformance or nonconformance with this Ordinance and matters which may create a threat to public health, safety or the general welfare, and may include a recommended course of action. Mitigation measures or

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alterations to a proposed design may be suggested where they would serve to lessen or eliminate identified impacts. The applicant shall receive a copy of any professional review contracted for by the Township and a copy of the statement of expenses for the professional services rendered.

### Section 2.9 Site Inspections

The Zoning Administrator shall have the authority to make inspections of premises for the purposes of verifying information on an application, monitoring conformance with the regulations and standards of this Ordinance, and for any other purpose associated with responsibilities of the Zoning Administrator granted by this Ordinance. The owner or his agent or representative, and the occupant or lessee of every building, or other person having the care and management thereof, shall give the Zoning Administrator free access thereto upon request at all reasonable times. No person shall interfere with the Zoning Administrator in the discharge of his/her duties.

### Section 2.10 Violations, Penalties, and Fines

**A. Declaration of Violations/Misdemeanor:** Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including conditions and safeguards established in connection with any approval including permits, variances, appeals, and site plans, are declared to be nuisances per se and civil infractions. The Township is authorized to enforce this Ordinance and to prosecute violations in any Court of competent jurisdiction.

**B. Penalties:** Any person, corporation, partnership, limited liability company, or other entity, who violates this Ordinance or fails to comply with any of its requirements, including conditions and safeguards established in connection with any approval including permits, variances, appeals, and site plans, may be prosecuted for a misdemeanor and shall upon conviction thereof, be subject to a fine not more than \$500.00 (\$1,200 for fire-related violations). Each day such violation continues shall be considered a separate offense. The Township may pursue any and all remedies and enforcement by one remedy does not preclude or waive enforcement by another remedy. Any act, use, thing, structure, or occupation which violates a provision of this Ordinance is subject to abatement by ex parte, temporary and permanent injunction, writ of abatement, and order of a circuit court, in addition to misdemeanor penalties and fines. The imposition of any fine, penalty, or jail sentence, or both, shall not exempt the violator from compliance with the provisions of this Ordinance.

**C. Presumptions:** The owner of record or tenant in possession of any building, structure, premises, or part thereof, and any architect, building contractor, agent, or other persons who commits, participates in, assists, aids, or maintains such violation may each be found guilty or responsible for each separate offense and be subject to the fines and penalties herein provided. It shall be conclusively presumed for purposes of enforcement, notwithstanding the lack of actual knowledge, that the owner of record as disclosed by the Township's current assessment roll, has authorized all uses of the land and premises owned.

#### D. Correction of Violations

1. **Notice of Violation:** Whenever the Zoning Administrator determines that a violation of this Ordinance or an approval issued under this Ordinance has occurred or is occurring, and if the violation does not constitute an immediate danger to public safety or the property of others if not corrected, the Zoning Administrator shall give written notice to the owner or occupant of the property and a copy to the person doing the construction or using the land or structures. The notice shall identify the violation and direct the violation be corrected within thirty (30) days unless seasonal or other conditions require an extended correction period. This notice of violation authorized by this Article is intended to secure compliance, if possible, without imposition of fines or jail.
  - a. Such notice of violation shall be directed to each owner of, or a party in interest, in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records.
2. **Prosecution Proceedings:** If the owner or party in interest fails to correct the violation within the time period specified by the Zoning Administrator, or where the Zoning Administrator determines that the violation constitutes an immediate danger to public safety or the property of others if not corrected, the Zoning Administrator shall communicate with the Township Attorney and the Township Attorney is authorized to initiate prosecution proceedings in any manner authorized by law including appearance ticket, summons and complaint or complaint and warrant. An appearance ticket, citation, complaint summons and/or warrant for a violation shall be served as required by law.

**Section 2.11 Public Hearing Notices**

**A. Hearing Notice Content:** Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall do all of the following:

1. Describe the nature of the request including whether the request is for a text amendment, zoning map amendment (rezoning), special land use, variance, appeal, ordinance interpretation or other purpose.
2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
3. Indicate the date, time and place of the hearing(s).
4. Indicate when and where written comments will be received concerning the request.

**B. Recipients and Means of Notice:** Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, the following shall receive notice of the hearing, which notice shall include the information specified in (A) above.

1. General public, by publication of the hearing notice in a newspaper of general circulation in the Township.
2. To the owners of property for which approval is being considered, and the applicant if the applicant is different than the property owner, by mail or personal delivery.
3. To all persons to whom real property is assessed within 300 feet of the boundary of the project subject to the request, and to the occupants of all structures within 300 feet of the property, regardless of whether the property or occupant is located in Montcalm Township, by mail or personal delivery. If the name of the occupant is not known, the term "occupant" may be used in making notification.
  - a. Subsection (3) above shall not apply in the case of rezoning requests involving eleven (11) or more adjacent properties, or an ordinance interpretation request or an appeal of an administrative decision that does not involve a specific property.
  - b. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, a single notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
4. To each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing, by mail, in the case of a text amendment or zoning map amendment.

**C. Timing of Notice and Determination of Notice Given:** Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall be made not less than fifteen (15) days before the date the request will be considered, including applications for zoning map amendments (rezonings), text amendments, special land uses, variances, appeals and ordinance interpretations. The notice under subsection (B) shall be considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service.

**D. Confirmation of Notices Made by Mail or Personal Delivery:** The Township Clerk shall keep a list of property owners and registrants to whom notice was mailed, as well as anyone to whom personal notice was delivered.

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**End of Article 2**

## Article 3 ZONING DISTRICTS, REGULATIONS, and MAP

### Section 3.1 Establishment of Districts

For the purpose of this Ordinance, the Township is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names, and shall have boundaries as delineated on the Official Zoning Map.

Conservation Districts

A-1 Agricultural District

Residential Districts

R-1 Rural Residential District  
R-2 Low Density Residential District  
R-3 Medium Density Residential District  
R-4 High Density Residential District  
R-MF Multiple Family Residential District  
R-MHC Manufactured Housing Community District

Commercial Districts

C-1 Local Commercial District  
C-2 General Commercial District

Industrial Districts

I-1 Light Industrial District

### Section 3.2 Zoning District Map

**A.** The boundaries of the respective Districts enumerated in Section 3.1 are defined and established as depicted on the Official Zoning Map entitled MONTCALM TOWNSHIP ZONING MAP which is an integral part of this Ordinance. This map, with all notations and explanatory matter thereon, shall be published as part of this Ordinance as if fully described herein.

**B.** This Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and bearing the following: *This is to certify that this is the Official Zoning Map of the Montcalm Township Zoning Ordinance adopted on the \_\_\_ day of \_\_\_\_\_, 20\_\_.* If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map.

**C.** The Official Zoning Map shall be located at the Township Hall and shall be the final authority with regard to the current zoning status of all land in the Township, along with supporting minutes of Township Board meetings regarding zoning district changes, regardless of the existence of copies of the Official Zoning Map which may be made and published from time to time.

### Section 3.3 Purposes of Zoning Districts

See Table 3-1.

### Section 3.4 Interpretation of District Boundaries

**A.** Where, due to the scale, lack of details, or illegibility of the Official Zoning Map, there is an uncertainty, contradiction, or conflict as to the intended location of any zoning district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application, to the Zoning Board of Appeals. The Zoning Board of Appeals, in arriving at a decision on such matters, shall apply the following standards:

1. Boundaries indicated as approximately following roads or highway shall be construed as following the center lines of said roads or highways.
2. Boundaries indicated as approximately following section lines, quarter section lines, quarter-quarter section lines, or lot lines shall be construed as following such lines.
3. Boundaries indicated as approximately following Township boundary lines shall be construed as following such boundary lines.

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4. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance there from as indicated on the Official Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Official Zoning Map.
6. Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines, and in the event of change in the shorelines shall be construed as moving with the actual shorelines; boundaries indicated as approximately following the centerlines of streams, canals, or other bodies of water shall be construed to follow such centerlines.
7. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) districts, the regulations of the more restrictive district shall govern.

### Section 3.5 Permitted Uses in Zoning Districts

**A. Compliance with Zoning Regulations:** Except as may otherwise be provided in this Ordinance, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of, or addition to an existing use, building and structure occurring after the effective date of this Ordinance shall be subject to all regulations of this Ordinance which are applicable in the Zoning District in which such use, building, or structure shall be located. Whenever any fill is placed in any lake or stream, the land thus created shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable for lands to which the same shall attach or be adjacent.

**B. Uses Permitted in Each Zoning District:** Tables 3-2 and 3-3 identify the principal land uses permitted in each of the zoning districts enumerated in Section 3.1. No land use shall be established on a lot or parcel except in conformance with Tables 3-2 and 3-3. In order to insure all possible benefits and protection for the zoning districts in this Ordinance, the Tables delineate whether a land use permitted in a particular District is a "Use Permitted by Right" or a "Special Land Use".

1. Uses Permitted by Right: Uses permitted by right are the primary uses and structures specified for which the District has been established, and are subject to plot plan or site plan approval.
2. Special Land Uses: Special land uses are uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures permitted in the District, but could present potential injurious effects upon the primary uses and structures within the District or are otherwise unique in character, and therefore require special consideration in relation to the welfare of adjacent properties and to the Township as a whole. All such uses shall be subject to a public hearing and site plan approval. See Article 15, Procedures for Special Land Uses.
  - a) To assure adequate review of proposed land developments and meet the goals and objectives of this Ordinance and the Montcalm Township Master Plan, any use that exceeds 15,000 sq. ft. in gross floor area in a Commercial District, or 20,000 sq. ft. in gross floor area in an Industrial District, whether such floor area is in a single building or part of multiple buildings, is classified as a Special Land Use and subject to the provisions of Article 15: Procedures for Special Land Uses.

**C. Accessory Uses:** Unless otherwise specified in this Ordinance, accessory uses which are clearly incidental to, and customarily associated with the principal use of the property, are permitted in all Districts and shall conform to all applicable standards of this Ordinance, including Section 20.10 (Accessory Uses, Buildings, and Structures).

**D. Prohibited Uses:** Any use of land not specifically permitted is prohibited, including any use of land not specifically identified in Tables 3-2 and 3-3. The Planning Commission may be petitioned to initiate an amendment to the Ordinance to authorize an otherwise prohibited use, and criteria that will apply for that use. If the Township Board approves such an amendment, then an application can be processed to establish that use.

### Section 3.6 Site Development Requirements of Zoning Districts

**A.** All land uses shall comply with the site development requirements of the District in which it is located, as delineated in Table 3-4, in addition to all other applicable site development provisions of this Ordinance including, but not limited to:

1. Article 7: Standards for Specific Land Uses.
2. Article 9: Signs.
3. Article 10: Off-Street Parking and Loading.
4. Article 11: Landscaping and Screening.
5. Article 12: Environmental Standards.
6. Article 21: Supplemental Provisions.

**C.** No part of a setback area, yard, or other open space required about or in connection with any use, building or structure, for the purpose of complying with this Ordinance, shall be included as part of a setback area, yard, or other open space similarly required for any other use, building or structure.

**D.** No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein, including lot size and lot width.

**E.** No portion of one lot, once established and/or improved with a building or structure, shall be used in the creation of another lot unless each lot resulting from each such reduction, division, or sale, shall conform to all of the requirements established herein.

**F.** Wherever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or

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limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, the provisions of such law or ordinance shall govern.

### Section 3.7 Special District Provisions

#### A. R-MF: Multiple Family District (R-MF)

1. Minimum lot size shall be one (1) acre for the first three (3) dwelling units, and an additional two thousand five hundred (2,500) square feet for each additional dwelling unit. In the case where public sewer is available, the minimum lot size shall be twenty thousand (20,000) sq. ft. for the first three (3) dwelling units, and an additional two thousand five hundred (2,500) square feet for each additional dwelling unit.
2. All buildings shall be set back from all lot lines a minimum of forty (40) feet.
3. Maximum building heights shall not exceed thirty (30) feet, except that any portion of a building within one hundred (100) feet of an R-1, R-2, R-3 or R-4 District shall not exceed twenty (20) feet. In addition, the maximum height of any building that exceeds two-hundred (200) feet in length shall not exceed twenty (20) feet in height.
4. The distance between any two (2) residential structures which occupy the same lot shall be not less than thirty (30) feet.
5. There shall be provided easily accessible and usable open space in the development in an amount of ten percent (10%) or more of the site area or five hundred (500) square feet per four dwelling units, whichever is greater, but in no case shall less than ten thousand (10,000) square feet be provided.
6. All access drives shall have a minimum pavement width of thirteen (13) feet for one-way streets, and twenty-four (24) feet for two-way streets.
7. Accessory buildings, structures, and uses that are clearly customary and incidental to the functioning of the development are permitted, including an office for conducting the business of the development, utility areas for laundry facilities and auxiliary storage for tenants, recreation areas such as community buildings, playgrounds, and open space for tenants, and administrative offices.
8. All developments shall provide for underground installation of all utilities where feasible.
9. The minimum floor area for multiple family dwelling units shall be as follows:
  - a. Efficiencies: 400 sq. ft. of heated living area.
  - b. One bedroom units: 750 sq. ft. of heated living area.
  - c. Two bedroom units: 850 sq. ft. of heated living area.
  - d. Three bedroom units: 950 sq. ft. of heated living area.
  - e. Four or more bedroom units: 1,050 sq. ft. of heated living area, plus 100 sq. ft. of heated living area for each additional bedroom in excess of the fourth bedroom.

#### B. Manufactured Housing Community District (R-MHC)

1. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Michigan Mobile Home Commission Act, 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 developer and Planning Commission shall generally follow the procedures and requirements in Article 14 of this Ordinance, where applicable, except where said procedures and requirements are superseded by the requirements in P.A. 96 of 1987, as amended, or the Mobile Home Commission Rules. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Planning Commission shall take action of the preliminary plan within sixty (60) days after the Township receives the preliminary plan.
2. All manufactured housing communities shall be constructed and maintained in accordance with P.A. 96 of 1987, as amended, and the rules and regulations promulgated by the Mobile Home Commission pursuant to the authority vested in the Mobile Home Commission by such Act. The construction of a mobile home park shall not be initiated, nor shall a mobile home park be inhabited or operated until all necessary permits have been acquired from the Michigan Department of Consumer Services, Michigan Department of Commerce, and all other agencies pursuant to the Mobile Home Commission Act.
3. In addition to complying with the provisions of P.A. 96 of 1987, as amended, and the rules and regulations promulgated by the Mobile Home Commission, the following standards and provisions shall apply:
  - a. Minimum Parcel Size: Ten (10) acres.
  - b. Minimum Site Size: The mobile home park shall be developed with sites averaging 5,500

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square feet per mobile home unit. This 5,500 square foot standard for any one site may be reduced by twenty (20) percent provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space.

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**Table 3-1  
PURPOSES of ZONING DISTRICTS**

Table 3-1 identifies the principal purposes of the Districts of this Ordinance. Tables 3-2 and 3-3 identify the specific uses permitted in each District. Tables 3-2 and 3-3 may identify uses permitted in each District in addition to those referenced in the following purpose statements where considered compatible with and/or supportive of the principal purposes of the District, including certain special land uses.

<b>DISTRICT TYPE</b>	<b>DISTRICT</b>	<b>PURPOSE</b>
<b>ALL DISTRICTS</b>	<b>All Districts</b>	It is the purpose of all Districts of this Ordinance to protect sensitive environmental resources, and that all uses are adequately served by facilities and services including sewage disposal, potable water, fire protection, and streets. In addition, it is the purpose of all Residential Districts that development assures a stable and sound residential environment with suitable open spaces, and it is the purpose of all Commercial and Industrial Districts that developments minimize negative impacts on abutting properties. In addition to the above, the principal purposes of each District are delineated below:
<b>CONSERVATION DISTRICTS</b>	<b>A-1</b>	It is the principal purpose of the A-1 General Agriculture District to encourage and provide opportunities for agriculture and retention of land areas in Montcalm Township that are well suited for production of food and fiber, while also providing opportunities for limited residential development of an overall rural character. Conditions in this District are more supportive of long term economically viable farming as compared to other Districts, including lesser residential encroachment, comparatively large parcel sizes, and a greater presence of prime farmland soils. Persons considering residing within this District should be aware that the traditional smells, noises, pesticide applications, and other generally recognized agricultural activities associated with farming may continue on a long term basis.
<b>RESIDENTIAL DISTRICTS</b>	<b>R-1</b>	It is the principal purpose of the R-1 Rural Residential District to encourage and provide opportunities for the continuation of farming while also providing opportunities for comparatively low density rural residential lifestyles and development patterns that encourage the preservation of open spaces, natural resources, and the Township's rural character. The District is intended to provide greater opportunities for residential development than the more preservation-based A-1 District while still enabling landowners to pursue commercial and hobby farming. Persons considering residing within this District should be aware that the traditional smells, noises, pesticide applications, and other generally recognized agricultural activities may continue on a long term basis.
	<b>R-2 R-3 R-4</b>	It is the principal purpose of the R-2 Low Density Residential, R-3 Medium Density Residential, and R-4 High Density Residential Districts to provide opportunities for single and two-family residential development patterns of incrementally decreasing lot sizes and increasing density, to accommodate varying suburban and urban residential lifestyles and meet the varied housing needs of current and future residents.
	<b>R-MF</b>	It is the principal purpose of the R-MF Multiple Family Residential District to provide opportunities for apartment and similar multiple family developments to meet the varied housing needs of current and future residents.
	<b>R-MHC</b>	It is the principal purpose of the R-MHC Manufactured Housing Community District to provide opportunities for manufactured housing communities to meet the varied housing needs of current and future residents.

*Table 3-1 Continued Next Page*

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(Table 3-1 continued)

<b>DISTRICT TYPE</b>	<b>DISTRICT</b>	<b>PURPOSE</b>
<b>COMMERCIAL DISTRICTS</b>	<b>C-1</b>	It is the principal purpose of the C-1 Local Commercial District to provide opportunities for business establishments that primarily address the local day-to-day retail and service needs of Township residents and visitors. It is the intent of this District that the buildings and uses within this District support the predominant rural character of the Township through appropriate site development features such as architectural design and building scale, building materials, signage, landscaping, screening, and lighting. This District is not intended to accommodate regional retail and service uses, or other uses which may undermine the intended function and local character of this District.
	<b>C-2</b>	It is the principal purpose of the C-2 General Commercial District to provide opportunities for business establishments that address the retail and service needs of both local and regional populations, including the highway traveler, in a manner that supports the predominant rural character of the Township through appropriate site development features such as architectural design and building scale, building materials, signage, landscaping, screening, and lighting.
<b>INDUSTRIAL DISTRICTS</b>	<b>I-1</b>	It is the principal purpose of the I-1 Light Industrial District to provide for a variety of manufacturing and other industrial uses that can be generally described as being of low intensity, including comparatively small building sizes, the absence of objectionable external affects such as noise and fumes, and limited demands for public services. Manufacturing operations in this District are generally intended to rely on previously prepared materials, as opposed to the use, alteration, or manipulation of raw materials. No use shall be established in this District that does not have adequate provisions for the safe and lawful disposal of all chemicals, wastes and hazardous materials that it may use or generate.

*End of Table 3-1*

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**Table 3-2  
Permitted Principal Uses in Conservation and Residential Zoning Districts**

	PRINCIPAL USES	ZONING DISTRICTS						
		BR = Use Permitted by Right, S = Special Land Use - = Prohibited Use						
		A-1	R-1	R-2	R-3	R-4	R-MF	R-MHC
	<b>Uses of a Primarily Agricultural, Outdoor Recreation, or Natural Resource Based Character</b>							
1	Agriculture, excluding intensive livestock operations.	BR	BR	-	-	-	-	-
2.	Intensive livestock operations.	S						
3	Agricultural service establishments.	S	-	-	-	-	-	-
4	Farm equipment sales, service, and repair.	S						
5	Commercial stables.	S	S	-	-	-	-	-
6	Retail sales of ornamental trees, shrubs, and nursery stock that is grown on the premise.	BR	S	-	-	-	-	-
7	Shooting ranges.	S	S	-	-	-	-	-
8	Areas set aside for the protection of wildlife and natural resources, wildlife management areas, nature preserves, game refuges and similar conservation areas.	BR	BR	-	-	-	-	-
9	Campgrounds.	S	S	-	-	-	-	-
10	Golf courses and country clubs.	S	S	S	S	S	-	-
11	Retreat Centers.	S	S	-	-	-	-	-
12	Extraction operations.	S	S	-	-	-	-	-
13	Commercial wind energy conversion facilities.	S	-	-	-	-	-	-
	<b>Uses of a Primarily Residential Character</b>							
1	Single family dwellings.	BR	BR	BR	BR	BR	-	BR
2	Two family dwellings.	-	-	-	BR	BR	-	-
3	Multiple family dwellings.	-	-	-	-	-	BR	-
4	Manufactured housing communities, including accessory sales and storage of mobile homes.	-	-	-	-	-	-	BR
5	Day care, family home.	BR	BR	BR	BR	BR	-	BR
6	Day care, group home.	S	S	S	S	S	-	-
7	Foster care facility, family home.	BR	BR	BR	BR	BR	-	-
8	Foster care facility, group home.	S	S	S	S	S	-	-
9	Convalescent Home.	S	S	S	S	S	-	-
	<b>Uses of a Primarily Commercial or Business Character</b>							
1	Day care center.	-	-	S	S	-	S	S
2	Communication towers.	S <sup>1</sup>	S <sup>1</sup>	S <sup>1</sup>	S <sup>1</sup>	S <sup>1</sup>	S <sup>1</sup>	S <sup>1</sup>
3	Kennels.	S	S	-	-	-	-	-
4	Veterinarian clinics.	S	S	-	-	-	-	-
5	Bed and breakfast establishments.	S	S	-	-	-	-	-
6	Recycling Center.	S						
7	Hospitals.	S	-	-	-	-	-	-
	<b>Other Uses Not Listed Above</b>							
1	Public assembly facilities such as, but not limited to, cemeteries, parks, schools, libraries, religious facilities, and museums.	S	S	S	S	S	-	-
2	Public facilities not otherwise included in (1) above such as, but not limited to, fire stations, police stations, substations, jails, and public parking lots.	S	S	S	S	S	-	-
3	Clubs, lodges, and similar social centered organizations.	S	S	-	-	-	-	-
4	Fairgrounds.	S	-	-	-	-	-	-

1. See Section 7.5(D) regarding exemptions to the special land use classification of communication towers and other applicable provisions including application procedures.

**End of Table 3-2**

**Table 3-3  
Permitted Principal Uses in Commercial and Industrial Zoning Districts**

PRINCIPAL USES		ZONING DISTRICTS <sup>1</sup>		
		C-1	C-2	I-1
<b>Uses of a Primarily Agricultural, Outdoor Recreation, or Natural Resource Based Character</b>				
1	Agriculture.	–	–	BR
2	Agricultural service establishments.	–	S	S
3	Marinas.	S	S	–
<b>Uses of a Primarily Residential Character</b>				
1	Dwellings.	BR	BR	–
<b>Uses of a Primarily Commercial or Business Character<sup>1</sup></b>				
1	Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building including, but not limited to, foods, drugs, liquor, furniture, clothing, dry goods, notions, books, flowers, jewelry or hardware.	BR	BR	–
2	Service station, standard.	S	S	–
3	Service station, multiple use.	S	S	–
4	Vehicle repair shop.	S	S	S
5	Sale of new or used cars, farm machinery, and other vehicles and equipment, and their service and repair of such vehicles and equipment.	–	S	–
6	Motels and hotels.	–	S	–
7	Mini-storage.	–	S	S
8	Standard restaurants, clubs, and other establishments which provide food or drink for consumption on the premises, but shall not serve alcohol or provide entertainment.	BR	BR	–
9	Standard restaurants, clubs, and other establishments which provide food or drink for consumption on the premises, and may serve alcohol. and/or provide entertainment	S	S	–
10	Indoor commercial recreation such as theaters, bowling alleys, skating rinks, indoor shooting ranges, and similar uses.	–	S	–
11	Drive-in, drive-through, take-out, pick-up, and other forms of in-vehicle retail or service establishments including restaurants, financial institutions, and similar facilities.	S	S	–
12	Funeral homes and mortuaries, including a dwelling occupied by the facility owner.	–	S	–
13	Day care center.	S	S	–
14	Communication towers	S <sup>3</sup>	S <sup>3</sup>	S <sup>3</sup>
15	Veterinarian clinics.	BR	BR	–
16	Arcade	BR	BR	–
17	Personal service establishments which perform services on the premises within a completely enclosed building, such as, but not limited to, shoe repair shops, barber and beauty shops, photographic studios, and dry cleaners.	BR	BR	–
18	Office establishments which perform services on the premises including but not limited to financial institutions, insurance offices, real estate offices, artist offices and galleries, professional offices for accountants, doctors, lawyers, and architects, and similar office uses.	BR	BR	–
19	Offices and showrooms of plumbers, electricians, decorators, and similar trades in connection with not more than 25% of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, finishing or refinishing its products or merchandise.	–	BR	–
20	Medical clinics.	BR	BR	–
21	Hospitals.	–	S	–
22	Vehicle / car wash facility.	–	S	–
23	Sexually oriented business.	–	S	–

Table 3-3 Continued Next Page

See End of Table for Explanation of Footnotes

**Montcalm Township Zoning Ordinance**

(Table 3-3 continued)

<b>PRINCIPAL USES</b>		<b>ZONING DISTRICTS <sup>1</sup></b>		
		<b>C-1</b>	<b>C-2</b>	<b>I-1</b>
		<b>BR= Use Permitted by Right</b> <b>S = Special Land Use,</b> <b>- = Prohibited Use</b>		
		<b>C-1</b>	<b>C-2</b>	<b>I-1</b>
<b>Uses of a Primarily Industrial Character<sup>1</sup></b>				
1	Building material sales yard, including retail lumber yards and incidental millwork, and storage facilities for building materials including sand, gravel, stone, lumber, and contractor's equipment.	-	S	<b>BR</b>
2	Mini-storage.	-	S	<b>BR</b>
3	The manufacturing, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, fur, glass, canvas, cork, felt, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wood, sheet metal, wax, and wire. "Previously prepared materials" are materials processed, manufactured or created at another location and transported to the parcel in this District for assembly into new products.	-	-	<b>BR</b>
4	Monument and art stone production and sales.	-	S	<b>BR</b>
5	Printing and publishing.	-	<b>BR</b>	<b>BR</b>
6	Assembly of electrical appliances, electronic instruments and devices, including the manufacture of small parts such as computer parts.	-	-	<b>BR</b>
7	The manufacturing, compounding, processing, treatment, fabrication or packaging of such products as: drugs, perfumes, pharmaceuticals, toiletries, bakery goods, candy, ceramics, clothing, jewelry, instruments, optical goods, hardware and cutlery, and food products (except fish, sauerkraut, vinegar, yeast, rendering or refining of fats and oils, and similar food products involving the creation of odors or other offensive impacts).	-	-	S
8	Junkyards and salvage yards.	-	-	S
9	Tool and die manufacturing establishments.	-	-	S
10	Plastic molding and extrusion.	-	-	S
11	Recycling center.	-	-	S
12	Warehousing, storage and transfer establishments, and truck terminals.	-	-	S
<b>Other Uses Not Listed Above</b>				
1	Public assembly facilities such as, but not limited to, cemeteries, parks, schools, libraries, religious facilities, and museums.	S	S	S
2	Public facilities not otherwise included in (1) above such as, but not limited to, fire stations, police stations, substations, jails, and public parking lots.	S	S	S
3	Clubs, lodges, and similar social centered organizations.	S	S	-

**Footnotes for Table 3-3**

- <sup>1</sup> Irrespective of the particular labeling of a cell in this table, any use that exceeds 15,000 sq. ft. in gross floor area in a Commercial District, or 20,000 sq. ft. in gross floor area in an Industrial District, whether such floor area is in a single building or part of multiple buildings, is classified as a Special Land Use.
- <sup>2</sup> Dwellings permitted as a special land use when located above the first or second story of a commercial building in a C-1 or C-2 District.
- <sup>3</sup> See Section 7.5(D) regarding exemptions to the special land use classification of communication towers and other applicable provisions including application procedures.

**End of Table 3-3**

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**Montcalm Township Zoning Ordinance**

**Table 3-4  
Site Development Requirements<sup>1</sup>**

All principal land uses shall comply with the site development requirements of Table 3-4 unless otherwise specified by this Ordinance. See also Section 3.6.

Zoning District	Minimum Lot Area	Minimum Lot Width and Frontage <sup>2</sup>	Maximum Building Height	Maximum Lot Coverage	Minimum Yard Setback		
					Front	Side	Rear
<b>A-1 General Agriculture</b>	1 acre <sup>4</sup>	150 ft.	28 ft. <sup>10</sup>	15% <sup>9</sup>	50 ft. <sup>3</sup>	15 ft.	20 ft.
<b>R-1 Rural Residential</b>	1 acre <sup>4</sup>	150 ft.	28 ft. <sup>10</sup>	15% <sup>9</sup>	50 ft. <sup>3</sup>	15 ft.	20 ft.
<b>R-2 Low Density Residential</b>	1 acre <sup>4</sup>	150 ft.	28 ft. <sup>10</sup>	15% <sup>9</sup>	50 ft. <sup>3</sup>	15 ft. <sup>6</sup>	20 ft.
<b>R-3 Medium Density Residential</b>	SFD: 30,000 sq. ft. <sup>4</sup> TFD: One acre <sup>4</sup>	SFD: 100 ft. TFD: 120 ft.	28 ft. <sup>10</sup>	20% <sup>9</sup>	50 ft. <sup>3</sup>	15 ft. <sup>6</sup>	20 ft.
<b>R-4 High Density Residential</b>	SFD: 30,000 sq. ft. <sup>4,5</sup> TFD: One acre <sup>4,5</sup>	SFD: 80 ft. <sup>5</sup> TFD: 110 ft. <sup>5</sup>	28 ft. <sup>10</sup>	20% <sup>9</sup>	25 ft. <sup>8</sup>	10 ft. <sup>6</sup>	20 ft. <sup>8</sup>
<b>R-MF Multiple Family Residential</b>	See Section 3.7(A)						
<b>R-MHC Manufactured Housing Community</b>	See Section 3.7(B)						
<b>C-1 Local Commercial</b>	1/2 acre	100 ft.	35 ft.	50%	50 ft.	15 ft. <sup>7</sup>	50 ft.
<b>C-2 General Commercial</b>	1 acre	200 ft.	35 ft.	50%	50 ft.	10 ft. <sup>7</sup>	50 ft.
<b>I-1 Light Industrial</b>	1 acre	200 ft.	35 ft.	50%	60 ft.	20 ft. <sup>7</sup>	50 ft.

SFD = Single family dwelling    TFD = Two family dwelling

*See following page for Footnotes.*

**Footnotes for Table 3-4  
SITE DEVELOPMENT REQUIREMENTS**

1. All uses shall comply with the site development requirements in Table 3-4, unless otherwise expressly specified otherwise by this Ordinance. See also Article 7 – Standards for Specific Land Uses, Article 9 – Signs, Article 10 – Off-Street Parking and Loading, Article 11 – Landscaping and Screening, Article 12 – Environmental Protection, Article 21 – Supplemental Provisions, and other Articles as applicable.
2. The depth of a lot shall not exceed 4 times its width. This standard shall not apply in the case of a lot in a platted or site condominium where the Township Board finds, during site plan review proceedings, that compliance with this standard will undermine the orderly development of the subdivision due to the subdivision's unique or irregular shape.
3. The front yard setback shall be measured from the road right-of way line, and shall be a minimum of 60 feet where the front lot line abuts M-91. In the case of a corner lot, the minimum required front yard setback shall apply to both yards abutting a right-of-way except in the case of the R-2 and R-3 Districts, in which case the side yard setback along the road shall be 25 feet.
4. See Section 7.18, Open Space Communities, for additional lot area, width, and density options.
5. Minimum lot area, width and frontage in the R-4 District, where sewer is provided, shall be:
  - a. Single family dwellings: 10,000 sq. ft. lot area; 70 ft. lot width/frontage.
  - b. Two-family dwellings: 20,000 sq. ft. lot area, 100 ft. lot width/frontage.
6. The side yard setback in the R-2, R-3 and R-4 Districts shall be a minimum of 10 feet except that in the case of a lot of less than 60 feet in width which has been recorded with the County Register of Deeds as of the effective date of this Ordinance, the side yard setback shall be 10% of such lot width at the point(s) where the lot width is less than 60 feet, but in no case shall the setback be less than 5 feet.
7. Minimum setback shall be increased to 50 feet in the case where the side yard abuts a Conservation or Residential District.
8. In the case of a lakefront-lot, there shall be a minimum 40 foot rear and side yard setback from the ordinary high water mark of any official state-named lake in excess of twenty (20) acres in surface area and from any year-round river or stream.
9. Any lot that is 5,001 or more sq. ft. in area but less than 10,000 sq. ft. in area shall have a maximum lot coverage of 25%. Any lot that is 5,000 sq. ft. or less in area shall have a maximum lot coverage of 30% or 1,500 sq. ft., whichever is greater.
10. The maximum height of farm buildings and structures shall be eighty (80) feet.
11. One lot of less than five (5) acres in area may be created for each whole forty (40) acre unit of land under single ownership existing on the effective date of this Ordinance, provided such lot is a minimum of one acre in area and has a minimum frontage and width of one hundred twenty-five (125) feet. The right to create lots of less than five acres according to this Footnote shall not be transferable to land separated from the parcel under single ownership existing on the effective date of this Ordinance.

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*End of Article 3*

**Article 4**  
**PLANNED UNIT DEVELOPMENT (PUD) DISTRICT**

**Section 41 Purpose**

The provisions of this Article provide enabling authority and standards for the submission, review and approval of applications for planned unit developments (PUD), pursuant to the Michigan Zoning Enabling Act. It is the intent of the Article to authorize the use of PUD regulations to permit flexibility in the regulation of land development to encourage beneficial innovation in land use and variety in design, layout, and type of structures constructed, achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities, encourage useful open space, and provide better housing, employment, and shopping opportunities. The provisions of this Article are not intended as a device for ignoring this Ordinance or the planning upon which it is based. To that end, the provisions of this Article are intended to result in land use development substantially consistent with the planned development pattern for the Township, with modifications and departures from generally applicable Ordinance requirements made in accordance with standards provided in this Article to insure appropriate, fair, and consistent decision making.

**Section 4.2 PUD Is A Separate District**

A PUD is permitted as a separate zoning district only when determined to be in compliance with the regulations of this Article. The approval of a PUD shall require an amendment of the Zoning Map constituting a part of this Ordinance so as to designate the property "PUD" and the PUD shall be subject to the approved PUD application.

**Section 4.3 Minimum Eligibility Criteria**

- A. The following minimum eligibility criteria shall be met in order for PUD approval:
1. Recognizable and Substantial Benefit: The PUD shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community. Such benefit must otherwise be unfeasible or unlikely under the regulations of other Districts.
  2. Availability and Capacity of Public Services: The proposed type and intensity of use shall not result in an unreasonable burden on the availability and use of existing public services, facilities, and utilities.
  3. Compatibility with the Master Plan: The proposed development shall be in accordance with the goals and policies of the Montcalm Township Master Plan.
  4. Compatibility with the PUD Intent: The proposed development shall be consistent with the intent and spirit of these regulations, as stated in Section 4.1.
  5. Economic Impact: The proposed development shall not impede the continued use or development of surrounding properties for uses permitted on such properties.
  6. Unified Control of Property: The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance and the specifications of the PUD approval.

**Section 4.4 Use and Design Standards**

**A. Permitted Uses and Mix of Uses:** Any land use authorized in this Ordinance is permitted in a PUD as a principal or accessory use provided that public health, safety, and welfare are not impaired and the essential character of the proposed PUD meets the general intent of the Master Plan. Where the Master Plan provides for residential development patterns, commercial and other nonresidential uses may be permitted as part of a PUD which also contains a residential component, provided that the residential component will be predominant. The determination of the predominance of the residential component shall take into account the following: the extent to which the non-residential use serves residents in the PUD compared to others who will travel to the site; the amount of traffic generated by the non-residential use compared to the residential component; the operational hours of the non-residential use; the proportional land area allocated to the non-residential use; and building floor area allocated to the non-residential use.



**B. General Site Development Standards and Waivers:** The site development standards for all proposed individual land uses and facilities in a PUD shall conform to this Ordinance, including such standards pertaining to lot area and dimensions, density, lot coverage, setbacks, parking, loading, landscaping and screening, road widths, and similar requirements, except that the Township Board may waive such standards where such modifications will result in a higher quality of development than would be possible without the modifications.

1. Unless a waiver is granted, standards pertaining to lot area and dimensions, density, lot coverage, and setbacks shall comply with those standards of the District which most closely characterizes the dominant character of the PUD development.
2. Unless a waiver is granted, mixed uses shall comply with the regulations applicable for each individual use, including the standards contained in Article 7, Standards for Specific Land Uses. If regulations are inconsistent with each other, the regulations applicable to the most dominant use shall apply.
3. The waiving of development standards may be authorized only upon a finding by the Township Board that there are adequate features or planning mechanisms designed into the project to achieve the objectives intended to be accomplished with respect to each of the standards from which a departure is sought.

#### **Section 4.5 Approval Standards**

**A.** Each application and site plan for a PUD shall conform to all applicable provisions of this Ordinance and the following:

1. Site Plan Approval Standards, Section 14.4.
2. General Approval Standards for Special Land Uses, Section 15.6.

#### **Section 4.6 Procedure for Review and Approval**

**A. Optional Preapplication Conference:** Prior to the submission of a preliminary site plan for PUD approval, the applicant may request a meeting with the Chairperson of the Planning Commission and the Township Supervisor, together with such consultants and local officials and staff as either the Township or the applicant deem appropriate. The purpose of the meeting is to inform township officials of the general theme for the proposed development and to provide the potential applicant with information regarding land development policies, procedures, standards and requirements of the Township pertaining to the proposed development. Statements made in the course of a preapplication conference shall not be legally binding commitments. At the preapplication conference (or conferences), the applicant may present a general sketch plan of the proposed PUD which provides an overview of the proposed project.

**B. Preliminary Plan: Application, Public Hearing, and Action:**

1. The applicant shall submit to the Township Clerk twenty (20) copies of a preliminary plan and a application form supplied by the Zoning Administrator. The Zoning Administrator shall forward copies to the Planning Commission. The Preliminary Plan shall comply with the requirements of Section 14.3(A) and include a detailed text description of the proposed development and all Ordinance standards that the applicant is seeking a waiver for.
2. The Planning Commission shall review the preliminary plan and shall be entitled to make reasonable inquiries of and receive answers from the applicant. Following review of the preliminary plan submittal, the Planning Commission shall act on the preliminary plan as if it were an application for rezoning, and in doing so, shall follow the provisions of Article 17.
3. Following the public hearing and any fact finding and additional studies, the Planning Commission shall prepare written findings regarding the preliminary plan's conformance with the applicable requirements of this Article and Ordinance, including the approval standards of Sections 14.4 and 15.6. The Planning Commission shall recommend to the Township Board to approve, deny, or approve with conditions the preliminary plan. The Planning Commission shall prepare and transmit a report to the Township Board stating its conclusions and recommendation, the basis for its decision, and any recommended conditions relating to an affirmative decision.
4. The Township Board shall take final action to approve, deny, or approve with conditions the preliminary plan. In reviewing the preliminary plan, the Township Board shall consider the applicable requirements of this Article and Ordinance, including Sections 14.4 and 15.6. The Township Board shall prepare and transmit a report to the applicant stating its conclusions and decision, the basis for its decision, and any conditions relating to an affirmative decision. The effect of Township Board approval of the preliminary plan shall be:
  - a. to authorize the fundamental PUD character and layout embodied in the preliminary plan, including any conditions applied to the approval, prior to the preparation of a final site plan.
  - b. to authorize a change on the Zoning Map to classify the subject property as PUD.

**C. Final Plan and Permit Issuance**

1. Within twenty-four (24) months following receipt of preliminary plan approval, the applicant shall submit to the Zoning Administrator twenty (20) copies of a final plan, or phase one of a final plan, including a final site plan conforming with Section 14.3(B) and including a detailed text description of the proposed development and all Ordinance standards that the applicant is seeking a waiver for. If the final plan has not been submitted within such period, the preliminary plan approval shall become null and void unless the Township Board extends the time for submission of the final plan upon a showing by the applicant that no material change of circumstances has occurred having bearing on the original action of the Township Board, found upon inspection by the Township Board to be valid.
2. The Zoning Administrator shall record the date of the receipt of the final site plan and transmit copies to the Planning Commission and other agencies or individuals selected to review such plans including but not necessarily limited to Township departments and staff, consultants, Montcalm County Drain Commissioner, and Montcalm County Road Commission.
3. The Planning Commission shall review the final plan and shall be entitled to make reasonable inquiries of and receive answers from the applicant. The Planning Commission shall prepare and transmit a report to the Township Board stating its conclusions and recommendation, the basis for its recommendation, and any conditions relating to an affirmative decision. The Planning Commission shall recommend to the Township Board to approve, deny, or approve with conditions the final plan. The Township Board shall take final action to approve, deny, or approve with conditions the final plan. In reviewing the final plan, the Township Board shall consider the applicable requirements of this Article and Ordinance, including Sections 14.4 and 15.6. The Township Board shall prepare and transmit a report to the applicant stating its conclusions and decision, the basis for its decision, and any conditions relating to an affirmative decision.
4. If and when the final site plan is approved, all improvements and use of the property shall be in conformity with the final site plan and any conditions imposed. The applicant shall record an affidavit with the Register of Deeds containing the legal description of the entire project, specifying the date of approval, and declaring that all future improvements will be carried out in accordance with the approved PUD unless a site plan revision is approved by the Township Board upon request or approval of the applicant or applicant's transferee and/or assignees. Upon receipt of the recorded documents, the Zoning Administrator shall issue a permit for that portion of the PUD project receiving final site plan approval.

**Section 4.7 Phasing**

**A.** Where a project is proposed for construction in phases, the project shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the PUD and residents of the surrounding area.

**B.** In developments which are to be predominantly residential in character but include nonresidential components, the Township Board may require a phasing plan to ensure that a specified number or percentage of the proposed residential units are constructed prior to or concurrently with nonresidential components, and such phasing plan may include similar requirements applied to the duration of the project's construction.

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**End of Article 4**

**Article 5  
(RESERVED for FUTURE USE)**

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**End of Article 5**

**Article 6  
(RESERVED for FUTURE USE)**

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**End of Article 6**

**Article 7**  
**STANDARDS and REGULATIONS for SPECIFIC LAND USES**

**Section 7.1 Purpose and Applicability**

The purpose of this Article is to establish standards and regulations in association with certain land uses to ensure the establishment of such uses minimizes negative impacts upon adjacent land uses and the Township as a whole, and encourages orderly development in coordination with surrounding conditions and within the development site itself. Where deemed beneficial to provide greater clarification of the purpose or character of use regulations addressed by this Article, such Sections are accompanied by a further “purpose” statement. Unless otherwise specified, each use listed in this Article shall be subject to all setback, lot area and other standards of the District in which the use is located. Where this Article establishes a standard more stringent than that required elsewhere in this Ordinance, including Table 3-4 of Article 3, the standard of this Article shall apply. Any requirements of this Article regarding application submittal data, plans, and drawings shall be in addition to the data requirements of Article 14, Site Plan Review. Compliance with the standards in this Article does not relieve the owner or operator of a permitted use from complying with additional standards in other applicable Township ordinances.

**Section 7.2 Bed and Breakfast**

**A. The following site and developmental requirements shall apply:**

1. No bed and breakfast use shall be permitted within a subdivision plat or site condominium, or on any property where there exists another bed and breakfast use within one thousand (1,000) feet, measured as a straight line distance between the structures.
2. The exterior appearance of the structure shall not be altered from its single family character.

**B Special Performance Standards:**

1. Meals may be served to overnight guests only. No separate or additional kitchen facilities shall be provided for the guests.
2. The number of bedrooms available for use by guests shall not exceed six (6) and all rooms utilized for sleeping shall be part of the primary residential structure.
3. No receptions, private parties or activities, for which a fee is paid, shall be permitted except as may be expressly authorized in association with the special land use approval of a bed and breakfast.
4. Lavatories and bathing facilities shall be available to all persons using the premises.
5. There shall be no sale or offer for sale of goods not produced personally by the owner of the establishment.

**Section 7.3 Campgrounds**

**A. The following site and developmental requirements shall apply:**

1. All campsites, common use and recreation areas, restrooms, and principal and accessory buildings shall be setback a minimum distance of twenty (20) feet from all lot lines and one hundred (100) feet from a residence existing at the time a Zoning Permit is issued for the campground.
2. A common use area shall be provided at a rate of five hundred (500) square feet per campsite, except that a minimum of ten thousand (10,000) square feet shall be provided.
3. A convenience store may be permitted to operate within a campground as an accessory and subordinate use to the campground where the campground exceeds more than 40 campsites, the approving body determines such store is to be located to significantly discourage use of the store by non-campers, and such enterprise is expressly authorized as part of an approved campground application.
4. Each campsite shall be clearly defined on the ground by stakes or markers, and no parking space shall be closer than thirty (30) feet to another space.
5. Each campsite where a campfire is permitted shall have a designated place for such fire.

**B. Special Performance Standards:**

1. At least one (1) public telephone shall be provided.
2. No more than one (1) permanent dwelling shall be allowed in a campground, which shall only be occupied by the owner, manager or an employee.
3. All campgrounds shall be licensed by the State of Michigan.



## Section 7.4 Commercial Stables

### A. The following site and developmental requirements shall apply:

1. A commercial stable shall not be established on any lot less than ten (10) acres in area.
2. Stables, buildings housing horses, and off-street parking areas shall be set back a minimum of one-hundred (100) feet from all lot lines. No public viewing areas, such as bleachers or designated assembly and viewing areas, in association with special events such as shows, exhibitions, and contests, shall be permitted within one hundred (100) feet of all lot lines.
3. Commercial stables shall not be located in platted subdivisions or site condominiums unless specifically designed as an equestrian community and located in an A-1 or R-1 District.
4. A vegetative strip of at least fifty (50) feet wide shall be maintained between any surface water and any animal holding area, manure pile, or manure application area.

### B. Special Performance Standards:

1. The facility shall be constructed and maintained so that manure, dust, and drainage shall not create a nuisance or hazard to adjoining property or uses.

## Section 7.5 Communication Towers

### A. The following site and developmental requirements shall apply:

1. The maximum height of a communication tower shall not exceed one hundred ninety-five (195) feet, but in no case shall a tower exceed the minimum necessary height to serve its intended function. Accessory buildings shall be limited to a maximum height of twenty (20) feet.
2. The setback of the tower from all property lines shall be no less than the height of the tower. This setback standard may be waived by the approving body upon a finding that the tower is designed to collapse upon itself or other measures are to be in place that would prohibit the tower from falling upon an adjacent property. However, in no case shall the tower setback be less than sixty (60) feet from a lot line and two hundred (200) feet from an existing residence.
3. The base of the tower shall occupy no greater than five hundred (500) square feet of area and shall be fenced with a minimum eight (8) foot chain-link fence. In the case where guy wires or a similar support system is used, fencing shall surround all locations where such supports are anchored to the ground.
4. Minimum separation distances between communication towers shall be one (1) mile. This requirement may be waived upon a finding by the approving body that establishing a new tower within a lesser separation distance shall, because of the particular conditions, more effectively minimize negative impacts of telecommunication facilities on the Township as a whole. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located irrespective of municipal, township and county jurisdictional boundaries.
5. Communication towers in excess of one hundred (100) feet in height are prohibited within a two (2) mile radius of a public airport and one-half (1/2) mile radius of a helipad.
6. Communication Towers shall be of monopole construction in Residential Districts. Skeletal structures, including the use of guy wires, shall be prohibited in such Districts.
7. Communication towers shall be of a white, light gray, silver or other similar color that blends with the background sky, and shall be constructed of or treated with corrosive resistant material.
8. Communication towers shall not be artificially lighted unless required by the Federal Aviation Administration or Federal Communications Commission.
9. All signaling devices and conductors extending substantially horizontally above the ground surface between a tower and another tower or other structure, shall be a minimum of eight (8) feet above the ground surface unless buried underground.
10. Signage shall be limited to safety and emergency information only.

### B. Special Performance Standards:

1. Communication towers shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive state and federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard. Costs for testing and verification of conformance shall be borne by the tower operator.
2. A communication tower, including all support systems, antenna mounts, structural and electrical components, and wind load resistance, shall be constructed in accordance with all applicable building codes and the requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission. All applications shall include a certification by a professional engineer of applicable expertise licensed in Michigan that all construction features of the tower comply with the requirements of all agencies having jurisdiction including those referenced above.
3. Communication towers shall be grounded for protection against a direct strike by lightning

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4. No persons shall be located on a communication tower site except for the occasional presence of personnel associated with periodic maintenance or emergency conditions.
5. In addition to applying the other standards of this Ordinance, including the special land use approval standards of Section 15.6, the approving body shall review and approve the support structure and all accessory buildings with respect to the design and appearance so as to minimize distraction, reduce visibility, maximize aesthetic appearance, including landscaping, and ensure compatibility with surroundings. To this end, no communication tower application shall be approved if the approving body determines that such tower will have an adverse impact on significant views from properties within one quarter (1/4) mile of the tower. For the purposes of this subsection (5), a "significant view" shall be considered:
  - a. A view from a residence that encompasses landscape features substantially free of man-made alteration, as a result of the unique topographic placement of the home; or
  - b. A view that is a dominant feature of a residential home site and which contributes significantly to the value of the home site as may be evidenced by the placement of a home on the site, the size, number and orientation of windows in the home, and the location and orientation of improved outdoor spaces on the home site, such as patios and decks.

The above clarification of "significant view" shall not be interpreted as the visibility of specific tower from a residence constituting an adverse impact.

6. Collocation
  - a. Statement of Policy: It is the policy of the Township to minimize the overall number of newly established locations for communication towers within the community, and encourage the use of existing structures or towers while promoting the public health, safety, and welfare and minimizing negative impacts of such sites. If a provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, contrary to the Township's policy for collocation. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the Township.
  - b. Feasibility of Collocation: Collocation shall be deemed to be "feasible" for purposes of this subsection (5) where all of the following are met:
    - 1) The communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.
    - 2) The tower on which collocation is being considered has the structural integrity to provide structural support.
    - 3) The collocation being considered is technologically reasonable in that the collocation will not result in unreasonable transmission interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
    - 4) The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the approving body, taking into consideration the standards contained in this Section.
  - c. Requirements for Collocation:
    - 1) A permit for the construction and use of a communication tower shall not be granted unless and until the applicant demonstrates that a feasible collocation is not available for the coverage area and capacity needs.
    - 2) All new communication towers shall be designed and constructed so as to accommodate collocation of a minimum of four (4) wireless communication facilities.
7. Removal
  - a. A condition of every approval of a communication tower shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:
    - 1) When the facility has not been used for one (1) year or more. For purposes of this section, the removal of antennas 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.
    - 2) One (1) year after new technology is available at reasonable cost as determined by the Township, which permits the operation of the communication system without the requirement of the support structure, or with a support structure which is lower and/or less incompatible with the area.
  - b. The situations in which removal of a facility is required, as set forth in paragraph (a) above, may be applied and limited to portions of a facility.

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- c. Upon the occurrence of one or more of the events requiring removal, specified in paragraph (a) above, the facility shall be removed and the site shall be restored to the condition it existed prior to the placement of the tower.
- d. If the required removal of a facility or a portion thereof, and restoration of the site, has not been completed within sixty (60) days of the condition specified in subsection (a) above, and after at least thirty (30) days written notice by the Zoning Administrator, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn, collected and/or enforced from or under the security posted at the time application was made for establishing the facility.
- e. The person who had used the facility shall immediately notify the Township Clerk in writing if and as soon as use of a facility ceases.

**C. Additional Application Requirements:** In addition to submitting the information required for all special land uses, including a site plan pursuant to Article 14, each applicant for a communication tower shall provide the following additional information. Any information of an engineering nature that the applicant submits, whether civil, mechanical, electrical, or structural, shall be certified by a licensed professional engineer of applicable expertise registered in the State of Michigan.

1. An inventory of its existing towers, antennas, or sites approved for towers or antennas, that are within Montcalm Township and four (4) miles of the border thereof, including specific information about the location, height, and design of each tower, the distance from the proposed tower, the owner(s)/operator(s) of the existing tower(s), and any additional information that is relevant in terms of potential collocation or in demonstrating the need for the proposed facility.
2. Elevation drawings of the proposed tower and any other structures.
3. The distance between the proposed tower to dwellings and neighborhood developments within a one-half (1/2) mile radius.
4. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
5. A notarized, sworn statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennae for future users.
6. For wireless communication systems, identification of the entities providing the backhaul network (i.e., the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, and/or the public switched telephone network) for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Township.
7. A description of the suitability of the use of existing towers, other structures, or alternative technology not requiring the use of towers or structures to provide the services proposed through the use of the proposed new tower.

**D. Exceptions from Special Land Use Classification and Special Application Review Provisions:**

1. Definitions. For the purposes of this subsection (D), the following terms shall have the following meaning:
  - a. "Collocate" means to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Collocation" has a corresponding meaning.
  - b. "Equipment compound" means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.
  - c. "Wireless communications equipment" means the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.
  - d. "Wireless communications support structure" means a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.
2. Exceptions from Special Land Use Classification: Wireless communications equipment shall be classified as a Use Permitted by Right and shall not be subject to special land use proceedings if an application meets all of the following requirements:
  - a. The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
  - b. The existing wireless communications support structure or existing equipment compound is in compliance with this Ordinance or was previously approved by the Township.
  - c. The proposed collocation will not do any of the following:
    - (1) Increase the overall height of the wireless communications support structure by more than 20

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- (twenty) feet or 10% (ten percent) of its original height, whichever is greater.
- (2) Increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.
  - (3) Increase the area of the existing equipment compound to greater than 2,500 square feet.
  - (4) The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the then-designated approving body of the Township.
3. Special Application Review Provisions:
- a. After a special land use application for wireless communication equipment is filed with the Planning Commission, the Planning Commission shall determine whether the application is administratively complete. Unless the Planning Commission proceeds as provided under subsection (b) below, the application shall be considered to be administratively complete when the Planning Commission makes that determination or the passing of fourteen (14) business days after the Planning Commission receives the application, whichever occurs first.
  - b. If, before the expiration of the fourteen (14) day period under subsection (a) above, the Planning Commission notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 14-day period under subsection (a) above is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification. A fee required to accompany any application shall not exceed the Township's actual, reasonable costs to review and process the application or \$1,000.00, whichever is less.
  - c. The Township Board shall receive a recommendation from the Planning Commission on the application, and approve or deny the application not more than sixty (60) days after the application is considered to be administratively complete by the Planning Commission, except that in the case of a special land use application for wireless communications equipment that does not meet the requirements of subsection (D)(2)(a) or for a wireless communications support structure, the period for approval or denial shall be 90days. If the Township Board fails to timely approve or deny a application, the application shall be considered approved and the Township Board shall be considered to have made any determination required for approval.

### Section 7.6 Day Care Centers

#### A. The following site and developmental requirements shall apply:

1. All outdoor play areas shall be set back a minimum distance of fifty (50) feet from all lot lines.
2. All outdoor play areas shall be enclosed with fencing, a minimum of four (4) feet high.

#### B. Special Performance Standards:

1. Day care center buildings authorized in Conservation or Residential Districts shall be of an overall residential character including exterior construction materials and general architecture. The property, including landscape and structural elements, shall be maintained in a manner that is consistent with the character of the area.
2. No approval shall be granted prior to the applicant's receipt of a license from the Michigan Office of Child and Adult Licensing.

### Section 7.7 Day Care Facility, Group Home

#### A. The following site and developmental requirements shall apply:

1. A group home day care facility shall not be located closer than fifteen-hundred (1,500) feet to any of the following facilities as measured along a road, street, or place maintained by this state or a local unit of government and generally open to the public as a matter of right for the purpose of vehicular traffic, not including an alley:
  - a. Another group home day care facility licensed by the State of Michigan.
  - b. A adult foster care group home licensed by the State of Michigan.
  - c. A facility offering substance abuse treatment and rehabilitation services to seven (7) or more people which is licensed by the State of Michigan.
  - d. A community correction center, resident home, halfway house or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.

**B. Special Performance Standards:**

1. All outdoor play areas shall be enclosed with fencing, a minimum of four (4) feet high and shall comply with all administrative rules of PA 116 of 1973, as amended.
2. The property, including landscape and structural elements, shall be maintained in a manner that is consistent with the character of the surrounding area. No play equipment shall be located in the front yard.
3. At least one (1) off-street parking space shall be provided for each non-family employee of the group day care home in addition to the parking normally required for the residence. A driveway may be used for this purpose. An off-street drop-off area is to be provided with the capability to accommodate at least two (2) automobiles in addition to the parking required for non-family employees of the dwelling and the parking normally required for the residence.
4. Hours of operation shall not exceed sixteen (16) hours in a twenty-four (24) hour period.
5. No approval shall be granted prior to the applicant's receipt of a license from the Michigan Office of Child and Adult Licensing.

**Section 7.8 Extraction Operations**

**A. Additional Materials to be Submitted:** In addition to the information required by Article 14 for site plan review, the following additional information shall be provided:

1. Location of all buildings within two hundred (200) feet of any activity proposed for the site.
2. Detailed proposal as to method of operation, what type of machinery or equipment will be used, estimated period of time that such operation will cover, and all haul roads and truck entrance locations to be used.
3. Detailed statement as to the type of deposit proposed to be extracted and the area and amount of material to be excavated (in cubic yards), and the anticipated average amount of material to be extracted each year.
4. Proposed plans for fencing.
5. Depth to and directional flow of groundwater.
6. Proposed side slopes and depths for all portions of the excavated area, including interim and final grades.
7. Proposed drainage system, settling ponds and retention ponds, as appropriate.
8. The proposed location of any buildings, storage areas, stockpiling areas, and sorting or crushing equipment as appropriate.
9. Physical descriptions of the location of each principal phase, number of acres included in each phase, and estimated length of time to complete each phase in extraction.
10. A detailed reclamation plan that identifies, at a minimum, the following:
  - a. Description of the intended reclamation use of the site upon completion of extraction activities, the spatial arrangement of proposed reclamation uses, and preliminary final grading of the site.
  - b. Depiction of finished, stabilized, side slopes.
  - c. A landscape plan, including an inventory of plant/tree species to be used, sizes, and locations, and the manner in which vegetation shall be restored upon the site, including appropriate seeding of grasses, or the planting of trees and shrubs, to establish a permanent vegetative cover on the land surface to minimize erosion. The landscape plan shall provide that a layer of arable topsoil shall be spread over the excavated area, except exposed rock surfaces, to a minimum depth of four (4) inches in accordance with an approved contour plan and intended reclamation use.
  - d. Final grades shall be no greater than slope of 3-1 (horizontal-vertical).
  - e. No noxious, flammable or toxic backfill and grading materials shall be used.

**B. The following site and developmental requirements shall apply:**

1. Minimum lot area shall be ten (10) acres.
2. Notwithstanding any other minimum yard sizes required by this Ordinance, all extraction activities, including alteration of existing topographic conditions, fixed and temporary buildings and equipment, washing and stockpiling of materials, truck parking and truck storage areas, and limits of site disturbance shall be set back a minimum distance of one hundred (100) feet from all lot lines and two hundred (200) feet from a residence existing at the time an application is submitted.
3. There shall be not more than one (1) entrance-way from a public road to said lot for each six hundred sixty (660) feet of frontage.
4. All buildings, structures, fuel storage, active excavation areas, stockpiling, and storage of equipment shall be visually screened from view from all residences within five hundred (500) feet of such areas.

**C. Special Performance Standards:**

1. Rumble strips shall be provided along access drives to discourage the tracking of dirt onto adjacent roads. Public streets within 1000 feet of the exit of the extractive use site shall be kept reasonably clear on a daily basis of mud, dirt and debris from vehicles exiting the site.
2. No topsoil shall be removed from the extraction site except in the immediate area of current extraction activities, provided the approved reclamation plan does not require topsoil in such areas.
3. The extraction shall be graded in a fashion which will not cause water to accumulate in stagnant pools.
4. Truck or heavy vehicle traffic related to extraction operations shall use major thoroughfares for access to the greatest extent feasible. The applicant shall make an adequate financial guarantee with the Township or Montcalm County Road Commission, to address any additional road maintenance and/or improvements necessitated by extraction operation truck traffic.
5. All activities including the removal of extraction material, ingress and egress by large vehicles or equipment, processing and stockpiling, or any other operation of motor-driven vehicles, shall occur exclusively between the hours of 7:00 a.m. and 9:00 p.m. This limitation shall not apply to equipment maintenance and repair.
6. Proper measures shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include, when considered necessary, limitations upon the practice of stockpiling excavated materials upon the site.
7. All temporary structures shall be removed from the premises upon completion of the extraction activity unless said structures are of sound construction and are compatible with the approved reclamation plan. Said structures shall be accurately depicted upon the approved reclamation plan.
8. The site shall be rehabilitated progressively as extraction areas are worked out or abandoned so that they shall be in a condition of being entirely lacking in hazards and be inconspicuous, and blended with the general surrounding ground form. Reclamation activities shall be initiated at the earliest possible date. Reclamation of the site concurrent with extraction activities shall be undertaken to the extent that the reclamation activities will not interfere with the excavating activity or if the excavating activity will damage the reclaimed areas. Excavated areas shall be reclaimed pursuant to the approved reclamation plan. The excavator shall be required to post an acceptable performance guarantee pursuant to Section 2.6 of this Ordinance to address the reclamation costs for each five (5) acres of land to be disturbed or excavated or fraction thereof. Extraction activities shall not be initiated on any location of the site until such performance guarantee has been posted for that area of the site.
9. When use of the extraction parcel for extraction operations has ceased for more than two (2) years, the operation shall be considered abandoned and a new application and permit shall be necessary before additional extraction activities may occur.
10. No area of an extraction parcel shall be subject to extraction operations except that which is approved for such activity according to an approved site plan.

**E.** When reviewing and taking action on a special land use application for an extraction operation, and in addition to reviewing such application according to the general special land use approval standards of Section 15.6, such application shall also be reviewed to determine whether adequate documentation has been submitted demonstrating that “no very serious consequences” will result by the approval of such application. The determination of “no very serious consequence” may be based on any of the following factors as may be applicable:

1. The relationship of extraction and associated activities with existing land uses.
2. The impact on existing land uses in the vicinity of the property.
3. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
4. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
5. The impact on other identifiable health, safety, and welfare interests in the local unit of government.
6. The overall public interest in the extraction of the specific natural resources on the property.

**Section 7.9 Foster Care Facility, Group Home**

**A. The following site and developmental requirements shall apply:**

1. An off-street drop-off area is to be provided with the capability to accommodate at least two (2) automobiles in addition to the parking required for employees.
2. The facility shall provide a loading/unloading area of adequate dimensions near a barrier-free entrance to the facility, and provide a loading/unloading area of adequate dimensions for delivery vehicles servicing the facility.

**B. Special Performance Standards:**

1. Any outdoor children's' play area shall be enclosed with fencing, a minimum of four (4) feet high.
2. The property, including landscape and structural elements, shall be developed and maintained in a manner that is consistent with the general character of residential properties within the general area.
3. No approval shall be granted prior to the applicant's receipt of a license from the Michigan Office of Child and Adult Licensing.

**Section 7.10 Fairgrounds**

**A. The following site and developmental requirements shall apply:**

1. The premises shall be provided with adequate fencing or other control mechanisms to prohibit persons attending an outdoor event from trespassing onto neighboring properties.
2. Adequate parking spaces shall be provided. Off-street parking shall be provided at a rate of a minimum of one (1) space shall per four persons, based on the maximum capacity of all buildings according to the Fire Marshal, but not less than one (1) space per 100 square feet of gross floor area. The applicant shall specify the total number of parking spaces available to accommodate indoor and outdoor activities, and the basis for which the proposed spaces are considered adequate to accommodate the likely demand. In no case shall parking occur within a public right-of-way nor shall vehicles entering the site result in the undermining of the public health, safety and welfare along public roads due to excessive congestion. No parking shall be located within ten (10) feet of a side or rear lot line, within twenty (20) feet of a front lot line, or within one hundred (100) feet of a residence existing at the time a Zoning Permit is issued for the fairgrounds.
3. A lighting plan shall be submitted showing the location, heights, and types of outdoor lighting fixtures, for all light fixtures in excess of ten (10) feet in height. Outdoor lighting shall be designed and located so as to reflect light away from adjacent properties and be confined to the subject site, to the greatest extent practical. All outdoor lighting shall be off except where necessary to illuminate an event or activity, or to provide reasonable security. No outdoor lighting shall result in more than one foot candle power of light within forty (40) feet of a residence existing at the time a Zoning Permit is issued for the fairgrounds. No lighting shall in any way impair the safe movement of traffic on any road.
4. No portable toilets shall be located within twenty (20) feet of a lot line or one hundred (100) feet of a residence.
5. Basic first aid services shall be available at all indoor and outdoor events, including such services as the treatment of burns, insect bites, bee stings, cuts and lacerations, and seizures, and performance of CPR.
6. Trash receptacles shall be provided in adequate number and location to address outdoor trash disposal needs. Outdoor areas shall be free of litter at all times. No trash receptacle shall be located within twenty (20) feet of a lot line and sixty (60) feet of a residence.

**B. Special Performance Standards:**

1. No outdoor events to which the general public is provided admittance shall be conducted after 11:00 p.m., except for activities associated with the closing of the event for the evening.
2. Camping, including recreational vehicle camping, is permitted provided camping facilities are made available to only those persons attending a scheduled event at the fairgrounds or at another festival or community event in the vicinity. Camping facilities shall not be available to the general public aside from persons attending such events. Only campers shall be permitted to remain on the site overnight in addition to facility staff, contractors, and persons participating in an event. No camping shall be located within twenty (20) feet of a lot line or within one hundred (100) feet of a residence existing at the time a Zoning Permit is issued for the fairgrounds. Where camping facilities are to be provided, the application shall specify whether such facilities shall be available during winter months and, if so, the manner in which sewage is to be disposed. All means of sewage collection and disposal shall comply with county and state requirements.
3. Fireworks are prohibited except where the Planning Commission grants express authority either as part of the application approval or upon written approval following a written request prior to the specific event at which fireworks are desired.
4. Sound or noise emanating from the site, when measured at the property line, shall not exceed the normal ambient sound level on adjacent property between the hours of 12:00 a.m. midnight and 7:00 a.m. At all other times, sound or noise emanating from the site shall not result in a nuisance or otherwise interfere with the reasonable use and enjoyment of surrounding properties.
5. Air-borne dust generated by wind, vehicular traffic or other means shall be adequately managed to ensure no nuisances are created for surrounding properties.

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6. Aside from an annual fair not exceeding two (2) weeks in length, a fairground may also hold no more than ten (10) events during a calendar year which generate five-hundred (500) or more daily attendees, and each such event shall not exceed three (3) days in duration. These limitations shall apply unless the Township Board expressly authorizes lesser restrictions as part of an approval of an application for a fairground.
7. As a means of generating funds during cold months for fairground operations, a fairground may make its facilities available for the storage of boats, campers, motor homes, and similar recreational vehicles. Such storage shall occur only in the area approved for such storage and only during the months of October through April unless specifically approved otherwise.
8. It shall be unlawful to conduct or permit any activity, entertainment, or signage that is characterized by "specified anatomical areas" or "specified sexual activities" as defined in Section 7.20, Sexually Oriented Businesses.
9. The applicant shall acquire and maintain public liability insurance, at its sole expense. The applicant shall furnish and deliver certificates of insurance demonstrating the existence of the insurance. Each certificate shall provide that the Township shall receive not less than thirty (30) days written notice of cancellation, expiration, or termination."

**C. Special Application Requirements:** An application for a fairground shall be accompanied by the information required by Article 14 and Article 15, and shall include the following additional information :

1. The site plan shall include a traffic circulation and control plan. The plan shall specify provisions for emergency vehicle access at all times. The location of all designated parking areas and reserve parking areas, including a distinction between those areas to be dedicated to passenger cars versus trailers, campers, and similar large vehicles, shall be identified. The site plan shall delineate the proposed parking layout, including the method of delineating spaces and drive aisles where paved surfaces are to be provided.
2. The site plan shall clearly delineate the intended use of all outdoor areas including those areas reserved for parking including overflow parking if applicable; loading and unloading areas; camping areas; arenas, grandstands, and other outdoor event areas; and similar outdoor use areas.

### Section 7.11 Golf Courses, Country Clubs, and Driving Ranges

**A. The following site and developmental requirements shall apply:**

1. Regulation length 18-hole golf courses shall have a minimum lot size of one-hundred twenty (120) acres. Eighteen-hole par-3 courses, and nine-hole courses with regulation length fairways, shall have a minimum lot size of sixty (60) acres.
2. All principal and accessory buildings, and parking areas, shall be not less than twenty-five (25) feet from all lot lines.
3. No temporary sanitary facility or trash receptacle shall be located within two hundred (200) feet of a lot line.
4. The minimum length of a driving range shall be two hundred seventy-five (275) yards, measured from the tee to the end of the range, and no driving station shall be located within seventy-five (75) feet of any lot line. The area shall be buffered by vegetation to minimize the impact upon adjoining properties. Additional buffering conditions necessary to minimize the impact or safety threats upon adjacent land uses may be imposed.
5. Fairways and driving ranges shall have sufficient width and shall be oriented in such a manner and set back a sufficient distance to prevent golf balls from being hit outside the perimeter of the golf course. The minimum width for fairways shall be one hundred (100) feet, unless the golf course designer can demonstrate that, because of the location of trees, sand traps, berms, or other features, a narrower fairway will not compromise safety.
6. Accessory uses may include managerial facilities, maintenance sheds, toilets, lockers, restaurants and drinking establishments, racket sports, swimming facilities, clubhouses, and other uses having a customary accessory relationship with a country club, provided all standards of this Ordinance are met and the approving body determines that such uses are clearly accessory and subordinate in character to the principal use of the parcel as an outdoor recreational facility.

**B. Special Performance standards:**

1. A minimum fifty (50) foot buffer zone between turf areas and natural water bodies, watercourses or wetlands shall be maintained. The buffer zone may be selectively pruned or thinned, and weeds and dead plant material may be removed. However, the buffer shall consist of natural vegetation and shall not be chemically treated.



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2. A hydrogeological study shall be completed and submitted to document the anticipated impact of the golf course on groundwater supply. This study shall inventory and analyze well logs from surrounding properties, giving consideration to the depth of the wells and quality of water. The study shall further estimate the quantity of water that will be used on a daily basis during the peak watering periods and shall evaluate the impact of watering operations on surrounding wells. The study shall be performed by an engineer or hydrologist licensed in the State of Michigan.
3. Detailed plans for hazardous materials storage shall be provided. Buildings in which hazardous materials are stored shall be designed to contain spills, shall not have floor drains that discharge into a septic system or other pathway to the groundwater, shall be lockable, and shall be kept locked. An inventory manifest of stored hazardous materials must be posted at the entrance of the storage building and filed with the Township. Plans for emergency containment and clean-up shall also be provided.
4. The design of buildings shall be of an overall residential or lodge character and exterior materials shall be primarily wood, siding, stone or brick.

### Section 7.12 Intensive Livestock Operations

#### A. Site and developmental requirements.

1. Minimum lot width shall be 1,320 feet.
2. Setbacks
  - a. No livestock production facility or manure storage facility which is part of an intensive livestock operation with 1,000 or more animal units shall be closer than 600 feet from all lot lines unless a greater distance is required by the Generally Accepted Agricultural Management Practices (GAAMPS). No buildings housing livestock or manure storage facility which are a part of an intensive livestock operation with 50 – 999 animal units shall be closer than 250 feet from all lot lines unless a greater distance is required by the GAAMPS.
  - b. No livestock production facility or manure storage facilities shall be located within 1,500 feet of a Residential District where agriculture is not permitted within such District.
  - c. No livestock production facility or manure storage facility shall be located within 1,500 feet of a hospital, religious institution, licensed care facility for the elderly, school building, park, or campground.
  - d. No livestock facility or manure storage facility shall be located within seventy-five (75) feet of an existing private domestic well.
  - e. No manure shall be applied within 150 feet of surface waters or to areas subject to flooding unless such manures are injected or surface-applied with immediate incorporation within forty-eight (48) hours, or vegetation buffers or other conservation measures are used to protect against runoff and erosion to such surface waters.

#### B. Special Performance standards:

1. The disposal and dispensing of animal waste shall be conducted in an agronomically sound method according to GAAMPS. The Township may appoint a qualified testing laboratory to perform soil testing to monitor compliance.
2. Secondary containment measures shall be provided so that, in the event of the failure of an animal waste collection or storage area, such waste shall not encroach within one hundred (100) feet of any lot line or right-of-way.

### Section 7.13 Junkyards

#### A. The following site and developmental requirements shall apply:

1. The minimum lot size shall be ten (10) acres.
2. A solid fence or wall enclosure at least six (6) feet in height, but no greater than fourteen (14) feet in height, shall be provided around all sides of the area used to store, dismantle, or otherwise work on junk. Such fence or wall shall be of sound construction, painted or otherwise finished neatly and inconspicuously. The enclosed areas shall be set back at least ten (10) feet from all lot lines. A landscaped buffer area shall be provided adjacent to the enclosure.
3. No junk yard enclosure shall be erected within two-hundred fifty (250) feet of a church, school, public building, park, cemetery, dwelling, or Residential District.

#### B. Special Performance Standards:

1. All activities shall be confined to within the enclosed area including storage or stockpiling of materials; disassembly of materials, parts, and vehicles; and the storage or parking of all equipment and operative and inoperative vehicles. There shall be no stocking of material above the height of the enclosure.

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2. No open burning shall be permitted. Between the hours of 7:00 p.m. and 8:00 a.m., all processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
3. Dust from roads, driveways, parking lots, and loading and unloading areas shall be controlled so as not to pose a nuisance.
4. The operation shall be licensed by the Michigan Secretary of State.
5. Any materials listed on the Michigan Critical Materials Register (gasoline and solvents) require secondary containment and a Pollution Incident Protection Plan filed with the Michigan Department of Environmental Quality.
6. The storage of vehicles shall comply with all state and federal regulations including those pertaining to the storage, transport, and disposal of batteries, fuels, oils, coolants and other hazardous materials.
7. No junk yard shall be used for the dumping or disposal of household, commercial, or industrial garbage and trash.
8. All junk material shall be fully removed from the site prior to the termination of said use.

### Section 7.14 Kennels

#### A. The following site and developmental requirements shall apply:

1. The lot shall be at least five (5) acres in size.
2. Buildings where animals are kept, runs, and group exercise areas (versus walking trails) shall not be located closer than 100 feet to any lot line.

#### B. Special Performance Standards:

1. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor. The site plan application materials shall document the manner in which animal stalls are to be constructed and animal waste is to be disposed, and measures to be taken to protect against odors, fleas, and the spread of disease.
2. All animals must be licensed and maintained in a healthful and careful manner.
3. The kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.
4. Habitual barking or unusual noise from the kennel which results in a nuisance to neighboring land owners or residents is prohibited.
5. Outdoor runs, pens or exercise yards shall not be used between the hours of 9:00 p.m. and 7:00 a.m.
6. Animals shall be kept confined and not allowed to run at large on the property except as part of supervised training.

### Section 7.15 Marinas

#### A. The following site and developmental requirements shall apply:

1. Marinas shall be located where topographic conditions minimize the necessity to excavate upland areas to create the necessary basin and where dredging will have minimal impact on wetlands, submerged aquatic plant beds, and rare, threatened or endangered species.
2. Marinas shall be located and designed to maximize the flushing and circulation of the basin area.
3. All buildings, boat storage areas, repair and service areas, docks, and parking areas shall be set back a minimum distance of fifty feet from all lot lines.
4. Parking, storage or locating of any boat on land for periods in excess of seven (7) days shall occur within a completely enclosed building.

#### B. Special Performance Standards:

1. All aspects of a marina shall be located and designed to minimize disturbances to neighboring properties including lighting, noise, parking, restroom facilities, boat launches, and picnic and other open space areas.
2. Documentation shall be included in a marina application that describes in detail the means and capacity for sewage collection and disposal.
3. There shall be no storage of fuels or other hazardous materials except where expressly authorized by the approving body. In such case, the application shall provide documentation of the marina's capability to respond rapidly and effectively to contain any spills of fuels and other hazardous materials.

### Section 7.16 Mini Storage Facilities

**A. The following site and developmental requirements shall apply:**

1. One (1) parking space shall be provided for each twenty (20) rental units within the buildings, and one (1) parking space shall be provided for each employee.
2. There shall be a minimum of thirty-five (35) feet (forty-five (45) feet if the driveway is two-way) between warehouses for driveway, parking, and fire lane purposes. Where no parking is provided within the building separation areas, said building separation need only be twenty five (25) feet. Traffic direction and parking shall be designated by signaling or painting.

**B. Special Performance Standards:**

1. No retail, wholesale, fabrication, manufacturing, or service activities may be conducted from the storage units.
2. Storage spaces shall not contain more than 500 square feet each.
3. All storage shall be within the enclosed building area unless specifically provided for otherwise as part of an approved site plan, as in the case of the storage of recreational vehicles. No outdoor storage shall occur within a front yard and within fifty (50) feet from a side and rear lot line.
4. No storage of hazardous, toxic, or explosive materials shall be permitted at the facility. Signs shall be posted at the facility describing such limitations.

### Section 7.17 Open Air Businesses (Commercial Livestock Yards; Sales of Vehicles, Landscape Supplies, and Outdoor Furniture; and Similar Outdoor Activities)

**A. The following site and developmental requirements shall apply:**

1. All outdoor sales, storage or display areas shall include a building of a minimum two hundred (200) square feet in area, which functions in association with the business.
2. All outdoor sales, storage and display areas shall comply with the minimum setback standards for the building on the premises, except that no outdoor storage, display or sales of livestock shall occur within three hundred (300) feet of a road right-of-way and one hundred (100) feet of all other lot lines.

**B. Special Performance standards:**

1. In the case of vehicle sales, all repair, assembly, disassembly or maintenance of vehicles shall occur within a closed building except minor maintenance, including tire, oil and wiper replacement.
2. The outdoor storage or display of any soil, fertilizer, sand, or similar exposed or packaged materials shall be sufficiently contained to prevent any adverse affect on water bodies, wetlands, drainage ways and adjacent properties.
3. Outdoor broadcasting of voice or music shall be prohibited.
4. All livestock shall be contained at all times by fencing of sufficient height and strength, and in a healthy condition.
5. Any premises used for outdoor sales, display or storage shall be kept free of trash and litter. All outdoor materials and products shall be fully removed from the premises prior to the permanent, seasonal, or otherwise temporary termination of said use. Such premises shall be left in a clean and orderly condition.

### Section 7.18 Open Space Communities

**A. Purpose:** It is the purpose of Open Space Communities (OSC) to provide opportunities for residential development which, because of the more flexible standards available to OSCs under this Section and according to Section 503 of the Michigan Zoning Enabling Act, more effectively encourage the preservation of the Township's natural resources including farmland and sensitive environmental areas, and the Township's rural character. The regulations of this Section propose to accomplish these purposes, in part, by providing for the grouping or clustering of new homes on smaller lots than typically required by the District within which the OSC is proposed to be located, so that the remainder of the site can be preserved as open space.

**B. The following site and developmental requirements shall apply:**

1. Uses: Uses within an OSC shall be limited to those dwelling types authorized by the District in which the OSC is located and customary accessory uses to dwellings, in addition to the open space as required by this Section.
2. Number of Lots/Dwellings: The number of dwellings and lots in an OSC shall not exceed one hundred ten percent (110%) of the number attainable by the Conventional Plan according to subsection (C)(2) below.
3. Minimum Lot Area and Width: The minimum lot area shall be as required by the health department and the minimum lot width shall be eighty (80) feet, except where such dwelling is to be served by public

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- sewer, in which case the minimum lot area and width shall be no less than forty-five percent (45%) of the conventional minimum standard for the District according to Table 3-4, but under no condition shall the minimum lot area be less than 5,000 sq. ft. and the minimum lot width be less than fifty (50) feet.
4. Special Setbacks: All buildings and structures shall comply with the setback requirements of the District in which the OSC is located except as follows:
    - a. Along the OSC parcel perimeter, adjacent to a road outside of the OSC parcel: One hundred feet (100) feet, except where the approving body finds the natural or proposed topography, vegetation, or other conditions provide adequate screening and buffering, in which case such setback may be reduced to no less than seventy (70) feet.
    - b. Along the OSC parcel perimeter, but not adjacent to a road: Fifty (50) ft.
    - c. Along a road inside of the OSC parcel: Twenty-five (25) ft.
    - d. Along lakes, ponds, rivers, streams, and wetlands: Fifty (50) feet, except that this setback shall not prohibit trails, boardwalks, observation platforms or other similar structures that enhance passive enjoyment of the site's water resources within the setback.
  5. Guarantee of Open Space: An OSC shall include permanently dedicated open space. Such required open space shall remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, acceptable to the approving body. Further subdivision of open space land or its use for other than conservation, agricultural uses, or preservation in an undeveloped state, is prohibited. The applicant shall guarantee to the satisfaction of the approving body that all open space portions of the development will be maintained in perpetuity and 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. For the purposes of this Section, "undeveloped state" shall be construed to mean a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. For the purposes of this Section, "greenway" shall be construed to mean a contiguous or linear open space, including habitats, wildlife corridors, and trails, that link parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.
    - a. A minimum of fifty percent (50%) of the OSC parcel shall be designated as permanent open space. However, in no case shall more than one-quarter of the minimum required open space acreage be comprised of year-round submerged land such as ponds, lakes, and year-round submerged wetlands.
    - b. The open space conveyance shall:
      - 1) Indicate the proposed allowable use(s) of the dedicated open space.
      - 2) Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
      - 3) Provide for maintenance to be undertaken by the 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.
    - c. Open space shall be located on the parcel to meet the following objectives:
      - 1) To preserve distinctive natural features and rural characteristics such as mature woodlands, steep slopes, wetlands, floodplains, stream corridors, special plant and animal habitats, expansive fields including farmland, and panoramic views.
      - 2) To minimize impact from development on wetlands, rivers, and other sensitive environmental areas.
      - 3) To promote the effective preservation of the existing character along the public road frontages that the OSC abuts, to the extent such frontage areas are characterized by open space areas, significant vegetation, environmental resources, and/or scenic views, through the retention of such features by additional building setbacks, strategic placement of dedicated open space, proposed native planting screens, and/or other means.
  6. Fire Protection: Fire protection measures shall be provided in all OSCs which provide public water, and in OSCs which are generally characterized by lots of approximately one half (1/2) acre or less in size where such lots are clustered or otherwise generally adjacent to one another. Fire protection measures shall include an adequate on-site source of water for use by the local fire department and associated infrastructure to enable the local fire department to effectively respond to a fire emergency.
  7. Access and Circulation
    - a. All dwellings within an OSC shall gain access from an interior road within the OSC.

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- b. A non-motorized circulation system may be required along one side of, or all of, the internal roads of the OSC to ensure safe non-motorized travel. Such circulation system shall be coordinated with existing or planned pedestrian ways, roads, and activity centers in the area. Non-motorized circulation networks shall assure ease of access from residences to the designated open space areas.
8. Scheduled Phasing
- a. 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 development and the residents of the surrounding area.
  - b. Timing of Phases: Each phase of the project shall be commenced within twelve (12) months of the schedule set forth on the approved final site plan. If construction of any phase is not commenced within the approved time period, an extension may be granted following review of a formal request for extension by the owner and approval of same by the Planning Commission. Such approval may be withheld only where harm to adjacent lands or uses would occur, there have been significant changed conditions in the area, or in the case of fraud or violation of the terms of the original approval.

### C. Special Application and Approval Requirements:

1. Unified Control: The application shall demonstrate that 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, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
2. Conventional Plan: At the time the applicant submits a site plan for the OSC, the applicant shall also submit a conventional plan which shall illustrate a practical and reasonable manner for developing the project parcel according to the conventional development standards of the District in which it is located. This plan shall identify the total number of lots and dwellings reasonably attainable. The approving body shall make the final determination as to the number of dwellings and lots reasonably attainable by conventional design. This information shall be used when determining the permissible number of dwellings and lots for an OSC proposal.
  - a. The conventional plan referenced in subsection (2) above need not be an engineered set of construction drawings, but shall be of such detail and clarity to demonstrate conformity with all state, county and township regulations including, but not limited to, potable water and sewage disposal, storm water management including necessary detention and retention ponds, and general road design and construction. The conventional plan shall demonstrate the feasibility of the proposed plan both in regard to its construction and its negligible impact upon sensitive environmental resources including wetlands and drainage courses and, in doing so, shall include the following: natural features such as wetlands, woodlands, flood plains, streams, rivers, county drains, lakes, ponds, and topography (at two-foot intervals); and man-made features such as existing roads, structures, utilities, easements, and adjacent land use conditions. A conventional plan shall not be considered by the approval body if it determines that it does not provide the necessary level of detail or information to assess such conventional plan for the purposes of subsection (2) above.
3. Recording of Approval Action/Permit Issuance: The applicant shall record an affidavit with the County 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 OSC plan unless a change is approved by the Township. In addition, all deed restrictions and easements shall be duly filed with the Register of Deeds of the County. Copies of recorded documents shall be presented to the Township Clerk. Upon receipt of the recorded documents, the Township Clerk shall direct the Zoning Administrator to issue a land use permit for the OSC.

### Section 7.19 Private Landing Strips

#### A. The following site and developmental requirements shall apply:

1. Runways shall be one thousand two hundred (1,200) feet in land length and fifty (50) feet in useable width, with a clear approach in each direction of 10:1 (horizontal to vertical) for a distance of 10,000 feet, except where the applicant can demonstrate that the intended type of aircraft to be used has standard operational characteristics that make such standards excessive such as in the case of "ultra light" aircraft.

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2. Runways, hangers, maintenance buildings, and any other structures associated with the landing strip shall be located a minimum of one-hundred (100) feet from lot lines.

### **B. Special Performance Standards:**

1. Approval of landing strips shall not be made prior to the receipt of the Federal Aviation Authority's review of the proposed landing strip.

## **Section 7.20 Sexually Oriented Businesses**

**A. Purpose:** Sexually oriented businesses require special management in order to protect and preserve the health, safety, and welfare of the patrons of such business as well as the communities where they locate. There is convincing documented evidence that sexually oriented businesses, because of their very nature, can facilitate and support undesirable and detrimental patterns of activity in their vicinity. These impacts are incompatible with activities and uses in residential areas, near educational, recreational, and religious facilities, and among local businesses and their immediate neighborhood. Such impacts can be exacerbated when such businesses locate in close proximity to each other or near establishments serving alcoholic beverages. Impacts contribute to blight and downgrading the quality of life in the adjacent area. The Township desires to prevent adverse affects and thereby protect the health, safety, and welfare of the citizenry, preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight. It is not the intent of this Ordinance, including this Section, to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact content neutral provisions that address the adverse effects of sexually oriented businesses. It is the purpose of this Section to regulate sexually oriented businesses and related activities to promote the health, safety, and general welfare of the citizens of the Township. These provisions do not have the purpose of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent of this Section to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of these provisions to condone or legitimize the distribution of sexually oriented materials.

**A. Definitions:** For the purposes of this Section, the following terms, phrases and definitions shall apply:

1. **Adult Bookstore:** A commercial establishment that, as a principal business purpose, offers for sale or rental or for any form of consideration any one or more of the items set forth in subsection (a) or (b):
  - a. Books, magazines, periodicals or other printed matter or photographs, films, motion picture video or other video reproductions, slides, or other visual representations or media, that depict or describe specified anatomical areas or specified sexual activity.
  - b. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

The sale of such materials shall be deemed to constitute a "principal business purpose" of an establishment if it comprises twenty-five percent (25%) or more of sales volume or occupies twenty-five percent (25%) or more of the floor area or visible inventory within the establishment.

2. **Adult Live Entertainment Center:** A nightclub, bar, restaurant, or similar commercial establishment that features one (1) or more of the following:
  - a. Persons who appear in the state of nudity.
  - b. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.
  - c. Films, motion pictures, video reproductions, slides, and other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
3. **Adult Motel:** A hotel or motel or similar commercial establishment that provides or permits one (1) or more of the following:
  - a. Accommodations to the public for any form of consideration and provides patrons with closed-circuit television (as distinguished from commercial cable services) transmissions, films, motion pictures, videos, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
  - b. Sleeping rooms for rent for a period of time that is less than twelve (12) hours.
  - c. The sub-renting of a sleeping room for a period of time that is less than twelve (12) hours by the tenant or occupant of the room.
4. **Adult Motion Picture Theater:** A commercial establishment that shows films, motion pictures, videos, slides, or other photographic reproductions or visual media, that depicts or describes specified anatomical areas or specified sexual activities. This description also includes commercial establishments that offer individual viewing booths.
5. **Adult Smoking or Sexual Paraphernalia Store:** An establishment having, as part of its stock in trade,

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- paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting, or inhaling marijuana, narcotics, or other stimulating or hallucinogenic drug-related substances.
6. **Adult Theater:** A theater, concert hall auditorium, or similar commercial establishment that features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of specified anatomical areas or specified sexual activities.
  7. **Escort:** A person who, for any form of consideration and regardless of who pays that consideration, agrees to act or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a strip tease for another person.
  8. **Escort Agency:** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
  9. **Manager's Station:** Designated area from which a premises is managed or supervised.
  10. **Massage Parlor:** Any establishment having a fixed place of business where massages are administered for a fee or other consideration including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing homes, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, face, neck, or shoulders. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet two (2) or more of the following criteria:
    - a. Proof of graduation from a school of massage licensed by the State of Michigan.
    - b. Official transcripts verifying completion of at least three hundred (300) hours of massage training from an American community college or university; plus three (3) references from professional massage therapists who are members of a massage association referred to in this section.
    - c. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or other recognized massage association with equivalent professional membership standards.
    - d. A current occupational license from another state.
  11. **Nude Model Studio:** Any place where a person who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include the following:
    - a. An educational institution funded, chartered, or recognized by the State of Michigan.
    - b. Any modeling session for a local, nonprofit organization that is not open to the public or to any persons other than members of the organization, that is for the purpose of instruction in the artistic depiction in two (2) dimensional or three (3) dimensional media of the human form, during which no specified sexual activities occur and during which the model remains in a fixed pose.
  12. **Open Dance Hall:** An establishment where open dancing by patrons is available during at least four (4) days per week with or without partners furnished by the establishment.
  13. **Public Nudity or State of Nudity:** Knowingly or intentionally displaying in a public place, or in any other place for payment or promise of payment by any person, including, but not limited to payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:
    - a. A woman's breast feeding of an infant irrespective of whether the nipple is covered during or incidental to the feeding.
    - b. "Material" defined in section 2 of Act No. 343 of the Public Acts of Michigan of 1984, being section 752.362 of the Michigan Compiled Laws.
    - c. "Sexually Explicit Visual Material" as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.
    - d. Any display of any part of the anatomy occurring as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the State of Michigan.
  14. **Sexual Encounter Center:** A business or commercial enterprise, except that which is part of the practice of and under the supervision and control of a physician, psychologist or psychiatrist licensed to practice in Michigan, that, as one of its principal business purposes, offers for any form of consideration one (1) or more of the following:
    - a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex.
    - b. Activities between male and female and/or persons of the same sex when one (1) or more of the persons is in a state of nudity.
  15. **Sexually Oriented Business:** A business or commercial enterprise engaging in or consisting of an adult bookstore, adult live entertainment center, adult motel, adult motion picture theater, adult smoking or

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sexual paraphernalia store, adult theater, escort, escort agency, massage parlor, nude model studio, open dance hall, or sexual encounter center.

16. Specified Anatomical Areas: Any of the following:
  - a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast at or below the top of the areola.
  - b. Human male genitals in a discernibly turgid state even if completely and opaquely covered.
17. Specified Sexual Activities: Any of the following:
  - a. The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
  - b. Sex acts, actual or simulated, including intercourse, oral copulation or sodomy;
  - c. Masturbation, actual or simulated.
  - d. Human genitals in a state of sexual stimulation or arousal.
  - e. Excretory functions as part of or in connection with any of the activities set forth in (a), (b), (c) or (d) above.
18. Transfer of Ownership or Control: Any of the following:
  - a. The sale, lease, or sublease of the business.
  - b. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means.
  - c. The establishment of a trust, gift, or other similar legal means that transfers ownership or control of the business except for transfer by bequest or other operation of law upon death of the person possessing the ownership or control.

**B. Locational and Exterior Standards:** All sexually oriented businesses shall comply with the following requirements pertaining to their location and exterior appearance:

1. No exterior portion of the sexually oriented business, including signage, shall have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this ordinance.
2. Separation Requirements
  - a. No sexually oriented business shall be located within seven hundred fifty (750) feet of any of the following:
    - 1) A church, synagogue or regular place of worship.
    - 2) A public or private elementary or secondary school.
    - 3) A boundary or any Residential District.
    - 4) Any dwelling irrespective of the District.
    - 5) A public park.
    - 6) A licensed day-care center or preschool.
    - 7) Another sexually oriented business.
  - b. For the purposes of subsection (2)(a) above, measurement shall be made as a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a public park, church, synagogue, regular place of worship, public or private elementary or secondary school or preschool, or licensed day care center, or to the nearest boundary of a Residential District or dwelling. However, the distance between any two (2) sexually oriented business uses shall be made from the closest exterior wall of the structure in which each business is located and in no case shall a sexually oriented business be located in the same building, structure, or portion thereof, containing another sexually oriented business.
  - c. A sexually oriented business lawfully operating as a conforming use shall not be rendered a non-conforming use by the subsequent location of a use within the separation requirements of subsection (2)(a) and (b) above. This provision shall not apply when an application for a permit for a sexually oriented business is submitted after a previous permit for such business has been revoked.

**C. Additional Application Requirements:** In addition to complying with the submittal requirements of Article 14, Site Plan Review, and Article 15, Special Land Uses, application for a sexually oriented business shall include the following additional information:

1. The name and street address of the intended operator (and mailing address, if different) and driver's license number of the intended operator if he/she has such a license.
2. The name and address of the intended operator (and mailing address, if different) of the owner(s), if different. All persons having ownership interest shall be listed.
3. The name under which the establishment is to be established and a detailed description of the services to be provided.
4. The telephone number of the establishment or, if unavailable, the operator's phone number.



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5. The address, and legal description of the tract of land on which the establishment is to be located.
6. In addition to the above, an application for a live entertainment center or adult theater shall provide in the site plan all of the following:
  - a. A diagram of the premises specifying the location of manager's stations. A manager's station shall not exceed thirty-six (36) square feet of floor area.
  - b. The location of all overhead lighting fixtures and illumination levels (in foot candles) at floor level throughout the premises.
  - c. Any portion of the premises in which patrons are not permitted.
7. The applicant shall certify, as part of the application, that he/she has not been convicted of any one or more of the criminal offenses identified under subsection (F)(4), if such certification is true.

**D. Additional Approval Standards:** In no case shall an application be approved for a sexually oriented business that does not comply with all standards of this Ordinance including the site plan approval standards of Article 14 and the special land use approval standards of Article 15. In addition, no application for a sexually oriented business shall be approved where one or more of the following is found to be true:

1. An applicant is under eighteen (18) years of age.
2. An applicant is overdue in payment of taxes, fines or penalties assessed against him/her or imposed upon him in relation to a sexually oriented business.
3. An applicant whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
4. An applicant had been convicted of any of the following criminal offenses in any jurisdiction:
  - a. Prostitution, procuring a prostitute, or solicitation of a prostitute.
  - b. Sale, distribution or display of obscene material.
  - c. Soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor.
  - d. Possession, sale or distribution of child pornography.
  - e. Public lewdness.
  - f. Indecent exposure.
  - g. Indecent conduct with a child.
  - h. Sexual assault or rape.
  - i. Incest.
  - j. Sexual solicitation of a child.
  - k. Criminal sexual conduct.
  - l. Assault with intent to commit any of the above crimes.
  - m. An attempt to commit any of the above criminal offenses.

### Section 7.21 Shooting Ranges

**A. The following site and developmental requirements shall apply:**

1. Minimum lot area shall be forty (40) acres for outdoor firearm shooting activities and shall be ten (10) acres for outdoor archery-only shooting activities.
2. Minimum front, side and rear yard setbacks for outdoor shooting stations shall be two hundred fifty (250) feet.
3. The perimeter of the shooting range shall be clearly posted with warning signs.

**B. Special Performance Standards:**

1. A site plan for the range, whether indoor or outdoor, shall be submitted clearly indicating all safety provisions to assure that any projectile discharged within the confines of a shooting range shall not exit the range.
2. The Township may submit a copy of the site plan to law enforcement agencies for review and comment.
3. All indoor and outdoor activities, including the shooting of projectiles and storage of projectiles, shall comply with the most current published standards and guidelines of the National Rifle Association and National Field Archery Association, as applicable.

### Section 7.22 Vehicle / Car Wash Establishment

**A. The following site and developmental requirements shall apply:**

1. The facility shall have frontage on and gain direct access to a paved road.
2. All washing activities shall be carried on within an enclosed building or under a covered structure with side walls separating individual washing bays.
3. Vacuuming activities shall be set back a minimum of one hundred (100) feet from property used for residential purposes.

4. Maneuvering lanes and stacking lanes shall be located on the site and shall provide sufficient room to avoid waiting cars encroaching into a road right-of-way.

**B Special Performance Standards:**

1. Each bay shall be graded and drained to collect run-off originating in the bay.
2. Trash containers shall be provided and emptied as necessary to prohibit litter.

**Section 7.23 Vehicle Repair Shops and Service Stations**

**A. The following site and developmental requirements shall apply:**

1. Service stations shall have frontage on and gain direct access to a paved road.
2. The site shall be no less than two hundred (200) feet from any place of public assembly, including any hospital, school, church or other institution. Measurement shall be the closest distance between lot lines.
3. Fuel pumps shall comply with the minimum setback requirements for principal buildings in the District.
4. The entire area used for vehicle service shall be paved and adequately drained.

**B. Special Performance Standards:**

1. Hydraulic hoists, service pits, lubricating, greasing, washing, and repair equipment and operations shall be located within a completely enclosed structure.
2. Vehicles rendered inoperative for any reason, and vehicles without current license plates and registration, shall not be maintained on the property for more than thirty (30) days. Such vehicles shall be parked or stored in a rear yard only, shall be screened, and shall be setback the minimum distance required for principal buildings in the District.
3. Vehicle renting or leasing in association with a repair facility may exist only as an accessory use to the principal repair activities, and only upon approval of a site plan delineating such rental/lease area and the type and maximum number of vehicles to be stored on the site for such purpose.
4. The application materials shall identify the extent, quantities, and types of explosive, flammable, or otherwise hazardous materials that may be used, and the measures to be used for proper handling, storage, and disposal of such materials.

**Section 7.24 Private and Commercial Wind Energy Conversion Facilities (WECFs)**

**A. Approval Procedures:** Commercial WECFs are classified as special land uses and subject to the review and approval requirements of Article 15 (Special Land Uses). Private WECFs are classified as a special land use and shall be subject to the review and approval procedures of Article 15 except as follows:

1. A private WECF that is serving a residence and is no greater than sixty (60) feet in height is not classified as a special land use, and is subject to Zoning Administrator approval. Such private WECFs shall comply with the standards and regulations of Section 21.10, Accessory Buildings, Structures, and Uses, except where this Section 7.25 provides otherwise.
2. A private WECF that is serving a commercially, industrially, publicly, or other non-residentially used property, that is no greater than fifty (50) feet in height, is not classified as a special land use and is subject to Planning Commission approval according to Article 14 (Site Plan Review). Such private WECFs shall comply with the standards and regulations of Section 21.10, Accessory Buildings, Structures, and Uses, except where this Section 7.25 provides otherwise.

**B. Application Requirements:** An application for a commercial or private WECF shall be accompanied by a site plan according to Article 14 including the identification of the proposed location of wind turbines, underground and overhead wiring including wiring depths, substations and accessory structures; the location and height of all proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and other above-ground structures associated with the WECF, and engineering data concerning construction of the turbine towers and bases. In addition to the submittal requirements of Article 14, the following supplemental information shall be provided for commercial WECFs. Where the application is for a wind energy conversion testing facility only, the designated approving body may waive any of the submittal requirements where it determines such information is not necessary in evaluating the application solely for testing purposes based on the character of the site, surrounding conditions, and the nature of the test tower.

1. Locations and height of all adjacent buildings, structures, and above-ground utilities located within 300 feet of the exterior boundaries of the parcel where the proposed commercial WECF and/or test tower will be located. Specific distances to other on-site buildings, structures, and utilities shall also be provided. The location of all existing and proposed overhead and underground electrical transmission or distribution lines shall be shown, whether to be utilized or not with the commercial WECF or test tower, located on the parcel involved, as well as within 1,000 feet of the boundaries of such parcel.
2. A lighting plan describing all lighting that will be utilized, including any lighting that may be required by

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- the Federal Aviation Authority. Such plan shall include but shall not be limited to the planned number and location of lights, light color and whether any lights will be flashing.
3. Location of access drives and their dimensions and construction profiles.
  4. Planned security measures to prevent unauthorized trespass and access.
  5. Narrative description of facility operations including anticipated regular and unscheduled maintenance, and the manner in which the site will be returned to its original condition upon termination of its use as a commercial WECF.
  6. Proof that the proposed WECF site has a minimum wind rating of 3 according to the U.S. Department of Energy, National Renewable Energy Laboratory.
  7. A description of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary in the county to accommodate construction vehicles, equipment or other deliveries.
  8. The applicant shall conduct an analysis of the alternating changes in light intensity caused by the moving blades of a WECF casting shadows on the ground and stationary objects, commonly referred to as "shadow flicker". The analysis shall identify the locations of shadow flicker that may be caused by the WECF and the expected durations of the flicker at these locations where located on adjacent properties, from sunrise to sunset over the course of the year. The analysis shall identify areas where shadow flicker may affect such properties including persons in structures or on roads, measures that shall be taken to eliminate or mitigate flicker in such circumstances, and the source and basis for such flicker projections.
  9. Where the Township Board determines that a proposed WECF site is part of an area characterized by a comparatively high concentration of birds, bat hibernacula, sites that are frequented by federally and/or state listed endangered species of birds and bats, significant bird migration pathways, and/or areas that have landscape features known to attract large numbers of raptors, the applicant shall fund an environmental study assessing the potential impact on such wildlife. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity, the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law, and the extent to which the WECF conforms to the "Interim Guidance on Avoiding and Minimizing Wildlife Impacts from Wind Turbines" as prepared by the U.S. Fish and Wildlife Service.
  10. The applicant shall submit modeling and analysis that will confirm that the WECF will not exceed the maximum permitted sound pressure levels specified in subsection (C)(4). Modeling and analysis shall conform to International Electrotechnical Commission 61400 and International Organization for Standardization 9613.
  11. A copy of the manufacturer's installation instructions and blueprints shall be provided to the Township. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the WECF and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Building Code as adopted by the Township. Drawings and engineering calculations shall be certified by a registered engineer licensed in the State of Michigan.

### C. Site Development Requirements

1. Minimum Lot Area: The minimum lot area for a commercial WECF, or a wind energy conversion test facility, shall be as necessary to meet required setbacks and any other standards of this Ordinance. The minimum lot area for a private WECF or test tower shall be as necessary to comply with Table 3-4 of this Ordinance, the required setbacks of this Section, and any other standards of this Ordinance.
2. Height: The permitted maximum total height of a commercial wind turbine, measured from the normal ground elevation below to the highest point of the wind turbine including to a blade tip in its highest position (vertical, horizontal, and/or diagonal) if such tip is the highest point, shall be 400 feet. The permitted maximum total height of a test tower shall be 300 feet, measured from the normal ground elevation below to the tip of the highest point of the wind turbine. The permitted maximum total height of a private wind turbine or test tower shall be ninety (90) feet, as measured above.
  - a. All heights shall comply with the requirements of the Federal Aviation Authority and county, state and federal regulations including the Michigan Tall Structures Act.
  - b. In the case of a commercial WECF, as a condition of approval, the Township may require a lesser height for a wind turbine if reasonably necessary to comply with the general special land use approval standards of Section 15.6.
3. Setbacks and Separation Distances: WECFs shall comply with the following:
  - a. No part of a WECF or test tower (including guy wire anchors associated with a test tower) shall be located within or above any required front, side or rear yard setback according to Table 3-4, Article

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3.
  - b. All wind turbines shall be set back a minimum distance from all property lines, and above-ground public electrical and communication lines, a distance equal to the height of the wind turbine, as measured from the normal ground elevation at the wind turbine base to the highest point of the wind turbine including to a blade tip in its nearest position (vertical, horizontal, and/or diagonal) if such tip is the nearest point. In the case of a private WECF where such height exceeds sixty (60) feet, the designated approving body may require a greater setback to minimize negative impacts on existing residences in the immediate area.
  - c. No wind turbine shall be located closer to another wind turbine than the minimum separation distance recommended by the manufacturer or the wind energy industry as may be published from time to time.
4. Rotor/Blade Clearance: No rotor/blade shall approach closer than twenty (20) feet to the ground surface below and, in the case of a commercial WECF, seventy-five (75) feet to any structure or tree. The above-referenced 20 foot separation distance shall not apply where the rotor/blade is mounted on another structure that prohibits pedestrian or vehicular movement on the ground below, or uses technology that generally includes a casing around moving parts.
5. Noise Emissions: No WECF shall produce noise levels that exceed fifty-five (55) decibels on the dB(A) scale, measured along the property lines of the parcel on which the WECF is located. This sound pressure level shall not be exceeded for more than three (3) minutes in any hour of the day. If the ambient sound pressure level exceeds 55 d(B)(A), the standard shall be the ambient dB(A) plus 5 dB(A). Within sixty (60) days of the operation of a commercial WECF, the applicant shall submit sound pressure level measurements recorded by a third party, qualified professional, according to the procedures in the most current version of American National Standardization Institute S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of American National Standardization Institute S1.4 specifications for a Type II sound meter.
6. Appearance:
  - a. Wind turbines shall not employ guy wires and shall be mounted on monopole towers, except that private WECFs may use wind turbines supported by a lattice structure. Monopole or lattice towers are not necessary where the turbine is mounted to a roof or other existing structure. All wind turbines shall either maintain a galvanized steel finish or be of a medium grey shade, subject to any applicable standards of the Federal Aviation Authority. The approving body may approve an alternate color if an alternate color would otherwise improve compatibility with surrounding conditions. Any additional buildings or structures shall, to the extent reasonably practical, use materials, colors, textures, screening and landscaping to enhance the compatibility of the facility with surrounding conditions.
  - b. WECFs shall not be artificially lighted, except to the extent required by the Federal Aviation Authority or other applicable authority, or otherwise necessary for the reasonable safety and security thereof. Strobe lights, as may be required by the Federal Aviation Authority, shall be shielded from the ground.
  - c. Wind turbines shall not be used for displaying any advertising except that each wind turbine shall have one (1) or more signs of no greater than four (4) square feet each that shall provide operational information including, but not necessarily limited to, a warning of high voltage and a specification of the manufacturer's name, company/utility operator, and emergency number(s).
7. Electromagnetic Interference: No WECF 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 applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the WECF. No WECF shall be installed in any location within the line of sight of an existing microwave communications link where operation of the WECF is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.
8. Vibrations and Wind Currents: Under no circumstances shall a WECF or test tower produce vibrations or wind currents humanly perceptible beyond the property boundaries of the parcel on which the WECF or test tower is located.
9. Safety Measures: This subsection shall not apply to private WECFs.
  - a. All access doors to turbine towers and electrical equipment shall be lockable, and no climbing device shall be made part of a wind turbine except within the interior of the tower from such lockable door or where not located within twelve (12) feet of the ground when placed on the exterior of the tower.
  - b. A tower capable of being climbed shall be enclosed by a locked, protective fence at least ten (10)

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feet high with barbed wire fence.

- c. All electrical equipment shall include applicable warning signs.
  - d. All electrical wiring shall comply with all applicable safety and stray voltage standards.
  - e. All electrical distribution lines from the WECF to the off-site electrical network shall be located and maintained underground on the property where the WECF will be located.
10. Test Tower is Temporary: A test tower shall be temporary and removed within twenty-four months of erection.
  11. Shadow Flicker: A WECF shall be sited in such a manner to minimize shadow flicker from the blades on any road or on any building on an adjacent property existing at the time the application is considered.
  12. Abandonment: Any WECF or test tower which is not used for 180 consecutive days or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property. All above and below ground materials must be removed. The ground must be restored to its original condition within 90 days of abandonment.
  13. Local Codes, State and Federal Requirements: All WECFs and test towers shall comply with the electrical and building codes of the Township and all other regulations and requirements of county, state and federal agencies including those of the Federal Aviation Authority, the Michigan Public Service Commission, National Electric Safety Code, and any other agency of the state or federal government with the authority to regulate wind turbine generators or other tall structures in effect at the time the permit is approved.

**D. Performance Bond:** In the case of a commercial WECF, the Township Board shall require a performance bond according to Section 2.6 to ensure full compliance with this Section and any conditions of approval. When determining the amount of such required performance bond, the Township may also require an annual escalator or increase based on the Federal Consumer Price Index (or the equivalent or its successor). At a minimum, the financial security shall be in an amount determined by the Township to be sufficient to have the WECF or test tower fully removed (and all components properly disposed of and the land returned to its original state) should such structure or structures become abandoned, dangerous or obsolete, or not in compliance with this Ordinance or the special use approval, and guarantee the repair of damage to public roads and other areas caused by construction of the WECF. Such financial security shall be kept in full force and effect during the entire time while a WECF or Testing Facility exists or is in place. Such financial security shall be irrevocable and non-cancelable (except by the written consent of both the Township and the then-owner of the WECF or Testing Facility) for at least 30 years from the date of the special use approval. Failure to keep such financial security in full force and effect at all times while a WECF or Testing Facility exists or is in place shall constitute a material and significant violation of a special use approval and this Ordinance, and will subject the applicant to all available remedies to the Township, including possible enforcement action and revocation of the special use approval.

**End of Article 7**

**Article 8  
(RESERVED for FUTURE USE)**

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**End of Article 8**

## Article 9 SIGNS

### Section 9.1 Purpose

The purpose of this Article is to provide a framework in which the identification and informational needs of all land uses can be harmonized with community interests in public health, safety and welfare, including the preservation of the Township's overall character and that of its business and residential areas. It is intended through the provisions contained herein to give recognition to the legitimate needs of business, industry and other activities, in attaining their identification and informational objectives, while recognizing that unrestricted or unregulated signage does not support the desired character of the Township nor benefit either private enterprise or the community-at-large as it creates traffic safety hazards, visual clutter, confusion for vehicle drivers, visual blight, and decreased property values, and undermines economic development initiatives.

### Section 9.2 Definitions

- A. Sign:** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, banner, flag, pennant, trade names or marks, or other representation, or combination thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity or product, an activity, a person, or an idea, which is located upon any land or structure on or in any building, in such manner as to attract attention from outside or off the premises.
- B. Ground Sign:** A sign which is not attached to a principal or an accessory structure, including center pole signs, posts and panels, and monument signs, but excluding off-premises advertising signs.
- C. Off-Premises Advertising Sign:** A sign which identifies goods, services, facilities, events, or attractions which are available or provided at a location other than the lot or parcel upon which such sign is located (commonly referred to as a "billboard").
- D. Portable Sign:** Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building, including but not limited to "A-frame", "T-frame", or inverted "T-shaped" structures, signs mounted on wheeled trailers, hot-air and gas filled balloons, banners, pennants, and streamers.
- E. Wall Sign:** A sign painted or attached directly to and parallel with the exterior wall of a building including signs on a rigid or non-rigid fabric marquee or awning-type structure.

### Section 9.3 General Standards and Regulations

**A. Type/Applicability:** Except where expressly provided otherwise by this Ordinance, all signs shall be wall signs, window signs, and/or ground signs, and shall apply and pertain solely to an authorized and approved use, activity or business on the lot on which the sign is located. Signs mounted on the roof of a building or structures, laying either flat or upright at an angle to the roof pitch, are prohibited. Off-premises advertising signs are prohibited except as regulated by Section 9.6.

#### **B. Measurements**

1. **Sign Area:** The area of a sign shall be computed by calculating the square footage of a sign face as measured by enclosing the most protruding points or edges of all sign faces of the sign within a parallelogram, rectangle, triangle, or circle, or combination thereof, including any framing. Where a sign has two (2) or more similarly shaped faces placed back-to-back, parallel to one another and less than eighteen (18) inches apart from one another, the area of the sign shall be the area of one (1) face. Where a sign has two (2) faces placed back-to-back, parallel to one another and less than eighteen (18) inches apart from one another, but the signs are of differing sizes, the sign area shall be that of the larger sign. In the case of a sign with three or more faces, the area of the sign shall be the area of all faces combined.
2. **Sign Setbacks:** All setbacks shall be measured from the nearest edge of the sign as measured from a vertical line perpendicular to the ground below the nearest edge of the sign, to the lot line.
3. **Sign Height:** The height of a ground sign shall be measured from the highest point of the sign, including all frame and structural members of the sign, to the adjacent street or average ground elevation within ten (10) feet of the sign base, whichever is less.



**C. Materials, Construction and Maintenance:**

1. All signs shall be constructed and maintained in a manner consistent with building code provisions and maintained in good structural condition at all times, free of hazards to the general public. Signs shall not be constructed from materials that are remnants or manufactured for a different purpose.
2. All signs shall be kept neatly painted, stained, sealed or preserved including all metal parts and supports. Signs shall be maintained free of peeling paint or paper, fading, rust, or other conditions reflective of a state of disrepair.
3. No light pole, utility pole, or other supporting member shall be used for the placement of a sign unless specifically designed and approved for such use.

**D. Lighting:** Signs may be internally or externally illuminated. In the case of external illumination, the source of illumination shall be shielded from traffic and adjacent properties and shall not be visible beyond the property line of the parcel on which the sign is located. No sign shall include flashing, blinking, moving or variable intensity illumination, excluding time or temperature signs. Non-scrolling electronic message signs that change messages no less than every 60 seconds will be permitted. See Section 12.4 for additional lighting provisions.

**E. Prohibition of Moving Parts:** Any sign which revolves or has any visible moving parts, visible revolving parts or visible mechanical movement of any type, or other apparent visible movement irrespective of the cause of the movement, is prohibited. Banners, pennants, festoons, spinners and streamers, and similar devices, which move due to wind or mechanical devices and which are intended to draw attention to a location are considered moving signs and are prohibited.

**F. Traffic Interference:** No sign, by location, design, color, or lighting, shall undermine public safety in association with vehicles or pedestrian passing, entering or exiting a lot including the obstruction of free and clear vision of approaching, intersecting or merging traffic, or encouraging confusion among drivers due to unauthorized traffic signs, signals or devices, or signs that make use of the words "stop", "look", "danger" or any word, phrase, symbol or character in such manner as to interfere with, mislead or confuse drivers or pedestrians.

**G. Obsolete Signs:** No sign shall remain on a lot if such sign advertises or identifies a business, activity or service no longer available on such lot.

**H. Right-of-Way:** No sign shall be placed in, upon, or over any public right-of-way, alley, or other public place, except that signs for the sole purpose of providing directional information for religious institutions, schools, governmental entities, and bona fide public service organizations are permitted in such public place upon approval of the Township Board and Montcalm County Road Commission.

**I. Garage Sales:** See Section 21.18.

**J. Vehicle Signs:** It is prohibited to park a vehicle on a lot for the purpose of advertising a business or use located on another lot.

**K. Permits/Review**

1. Required Permit/Review: All signs shall require a Zoning Permit prior to placement, erection, replacement or alteration unless exempted by subsection (2) below. If site plan review is required for a proposed project that a proposed sign is to be part of, the proposed signage shall be reviewed as part of the site plan review procedure for the entire project, pursuant to Article 14. If the proposed signage is to be part of an existing development for which site plan approval has already been granted or site plan approval is not necessary according to Section 14.2, the Zoning Administrator shall review the sign application to ensure all applicable ordinance standards have been met prior to the Zoning Administrator issuing a permit for the sign. The Zoning Administrator may defer action on proposed signage to the site plan approving body.
2. Signs Exempt from Permit/Review: The following signs are exempt from the provisions of subsection (K)(1) above but shall conform to all other regulations and standards of this Article.
  - a. Signs erected by a governmental entity.
  - b. Indoor signs affixed to or covering windows.
  - c. Real estate signs, special event signs, and other signs of a temporary nature as authorized by Section 9.4.
  - d. Signs related to a candidate running for office, a proposition up for public vote, or an ideology or philosophy.
  - e. Signs less than ten (10) square feet in area not otherwise listed above.

## Section 9.4 Signs Permitted in All Districts

A. The following signs are permitted in all Districts, subject to the standards and limitations prescribed including the provisions of Section 9.3:

1. Dwelling, foster care facility, and family home day care facility signs: No more than one (1) sign shall be erected for the purpose of identifying a dwelling unit, foster care facility, or family home day care facility. Such sign shall not exceed four (4) square feet in sign area. These limitations shall not prohibit the display of an additional address identification sign posted along the abutting road for postal and emergency identification purposes where such sign complies with the most current guidelines published by the U.S. Postal Service. Foster care facility and family home day care facility signs shall be affixed to the principle building.
2. Residential Development Identification: A residential development consisting of a platted subdivision, condominium subdivision, multiple family development, manufactured housing community, or other unified residential development consisting of at least five (5) dwelling units shall be permitted one (1) sign per vehicle entrance, no closer than fifteen (15) feet to the road right-of-way, and having a sign area not exceeding eighteen (18) square feet and a height not exceeding five (5) feet. The sign shall be for the sole purpose of identifying the development.
3. Real Estate/Dwelling Unit Availability Signs:
  - a. One (1) sign advertising the sale or lease of the lot or residence on which the sign is located shall be permitted, provided it is removed within thirty (30) days of the completion of the sale/lease, no more than two (2) signs on a single parcel shall be permitted, and no sign shall exceed nine (9) square feet in area.
  - b. A platted subdivision, site condominium, multiple family development, manufactured housing community, or other unified residential or non-residential development consisting of at least five (5) dwelling units, or three (3) acres of land in the case of a non-residential development, is permitted one sign advertising the sale or lease of a lot or residence no closer than fifteen (15) feet to the right-of-way of a street, and having a sign area not exceeding eighteen (18) square feet and a height not exceeding five (5) feet. Such sign shall be removed within six (6) months after the sale of ninety percent (90%) of all lots, units, or buildings within said development.
  - c. In addition to (a) and (b) above, a maximum of two (2) additional signs, not to exceed an area of four (4) square feet each, may be erected for the purpose of directing the public to a model home or unit, or rental office.
4. Construction Signs: Signs which identify the owners, financiers, contractors, architects and engineers of a project under construction for which a Zoning Permit has been granted, provided such a sign is a maximum height of six (6) feet and a maximum size of twelve (12) square feet, and provided only one (1) such sign per lot. Such sign shall be erected only during the construction period and removed within ten (10) days of the issuance of an Occupancy Permit by the Building Inspector.
5. Bulletin Board: A single bulletin board sign shall be permitted on a lot in any district that is used for a religious institution, school, museum, library, or other similar institution. Such sign shall have a maximum height of six (6) feet, shall not exceed twenty (20) square feet, and shall not be included in sign area calculations for compliance with Table 9-1. Such sign shall be setback a minimum of ten (10) feet from all lot lines.
6. Political Advertising Signs: Political advertising signs related to a candidate running for office, a proposition up for public vote, or a ideology or philosophy, shall not exceed thirty-two (32) square feet in area and six (6) feet in height.
7. Directional Signs: Signs that are used solely for the purpose of providing traffic directions or instructions in association with a lot on which they are located, such as "entrance," "exit," "in," and "out," are permitted in all districts on the lot on which they serve provided such signs shall not exceed two (2) square feet in area or three (3) feet in height, and located a minimum of five (5) feet from any lot line and driving lane edge. Such signs shall not count toward the permissible sign area standards of Table 9-1.
8. Special Event Signs: Signs designed to be moved easily and not permanently attached to the ground or a structure, containing public messages concerning special events sponsored by governmental agencies, nonprofit organizations, religious institutions, schools, museums, libraries, or other similar institutions, are permitted provided they are located on the lot which the event is to be held only and subject to the following additional restrictions:
  - a. Signs are permitted only in association with an authorized use in the respective District and shall not be located on a lot used for residential purposes.
  - b. Signs shall be no greater than twenty-four (24) square feet in area, and no more than two such signs shall be displayed for each event.
  - c. Signs shall be displayed no earlier than twenty-one (21) days prior to the event, and shall be

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removed within forty-eight (48) hours of the event's conclusion.

9. Warning Signs: Warning signs such as no trespassing and warning of electrical current or animals, provided that such signs do not exceed two (2) square feet.
10. Building Signs: Signs carved into stone, concrete, or similar material, or made of bronze, aluminum, or other noncombustible material, which identify the name of a building, a building's date of erection, or monumental citations, provided such signs do not exceed ten (10) square feet in area and are an integral part of the building structure.
11. Stick-On Signs: Miscellaneous stick-on and painted signs affixed to vending machines, gas pumps, ice containers, and similar outdoor items of less than six (6) feet in height, indicating the contents or announcing on-premises sales, provided each sign does not exceed two (2) square feet in area.
12. Historical Markers: Historical markers, plaques, or signs describing township, county state or national designation as an historic site or structure, not exceeding ten (10) square feet in area.
13. Home Occupation Signs: No more than one (1) sign shall be erected for the purpose of identifying the name and type of a home occupation operating on the lot. Such sign shall not exceed sixteen (16) square feet in sign area and four (4) feet in height.
14. Agricultural Produce Signs: No more than two (2) signs shall be erected for the purpose of identifying the sale of agricultural produce grown on the premises. Such signs shall not exceed nine (9) square feet in sign area and four (4) feet in height.
15. Personal Property Signs: No more than two (2) signs shall be erected, for no greater than thirty (30) days, for the purpose of identifying the sale of personal property available on the premises. Such signs shall not exceed nine (9) square feet in sign area and four (4) feet in height.
16. Farm Identification Signs: No more than one (1) sign shall be erected for the purpose of identifying a farm. Such sign shall not exceed twenty-four (24) square feet in area and six (6) feet in height.

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**Section 9.5 Additional Signs Permitted by District**

**A. Type, Number, Location and Size Standards:** In addition to the signs permitted by Section 9.4 and the limitations thereof, signs pertaining to an authorized and approved business, use or activity on a lot may be erected on such lot provided the signs are wall signs or ground signs unless specified otherwise, and comply with the District standards of Table 9-1 below. In no case shall the standards of Table 9-1 be interpreted as superseding the standards of Sections 9.3 or 9.4.

**Table 9-1**

(See "Special Notes to Table 9-1" on following page)

GS = Ground Sign WS = Wall Sign

District	Maximum Number of Ground Signs	Maximum Area of Ground and Wall Signs	Maximum Height of Ground Signs	Ground Sign Setback from Lot Lines
Conservation	1	<u>GS</u> : 24 sq. ft. <u>WS</u> : 32 sq. ft.	5'	10' where adjacent to a lot in a Conservation or Residential District, otherwise 5'.
Residential	1	<u>GS</u> : 24 sq. ft. <u>WS</u> : 32 sq. ft.	5'	10' where adjacent to a lot in a Conservation or Residential District, otherwise 5'.
Commercial	1	<u>GS</u> : 32 sq. ft. for the first 100' liner feet of building façade, or portion thereof, facing the road, plus 1 additional sq. ft. for each two lineal feet of building façade facing the road, but not to exceed 64 sq. ft. <u>WS</u> : 20% of the total vertical building façade square footage facing the road, but no single wall sign shall exceed 64 sq. ft. in area.	20'	Ground signs shall be set back from all lot lines a minimum distance equal to the sign's height but not less than 5', except that such setback shall be a minimum of 50' where adjacent to a lot in a Conservation or Residential District.
Industrial	1	<u>GS</u> : 32 sq. ft. for the first 100' liner feet of building façade, or portion thereof, facing the road, plus 1 additional sq. ft. for each two lineal feet of building façade facing the road, but not to exceed 64 sq. ft. <u>WS</u> : 20% of the total vertical building façade square footage facing the road, but no single wall sign shall exceed 64 sq. ft. in area.	20'	Ground signs shall be set back from all lot lines a minimum distance equal to the sign's height but not less than 5', except that such setback shall be a minimum of 50' where adjacent to a lot in a Conservation or Residential District.

**Special Notes to Table 9-1**

1. In the case of a corner lot, the sign area standards of Table 9-1 shall apply to each frontage separately.
2. Irrespective of the provisions of Table 9-1, the maximum ground sign area for a governmental agency, religious institution, school, museum, library, or other similar institution, shall be thirty-two (32) square feet and the maximum ground sign area for a bed and breakfast shall be nine (9) square feet.
3. No ground sign shall have a dimension that exceeds five times that of its opposite dimension, such as in the case of a sign's width and length.
4. In the case of a grouping of two or more business establishments on one (1) or more parcels of property which may share parking and access and are linked architecturally or otherwise developed as a unified group of businesses, such development shall be considered one use for the purposes of determination of the maximum number of ground signs. Further, in such case, the maximum total wall sign area upon a building facade shall not exceed twenty percent (20%) of the area of such façade. Any wall signs used to identify the business center and/or individual businesses contained within shall be applied toward

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meeting this maximum standard of ten percent (10%) of the area of such façade.

5. No wall sign shall extend above the eaves of the building roof, or more than eight (8) inches from the face of the wall, or beyond the corner of a wall.
6. No indoor sign affixed to or covering a window which is intended to be viewed from the outside shall exceed one-quarter (25%) of the total window area except in the case of the advertising of the grand opening of a business for a period not to exceed forty-five (45) days. Window signage in excess of fifty (50) square feet shall be applied to the calculation of wall sign area.

### Section 9.6 Off-Premises Signs

A. Off-premises advertising signs are permitted provided such signs comply with all provisions of the Highway Advertising Act, P.A. 106 of 1972, as amended, and all rules promulgated pursuant to such Act, and the following provisions. Where the following provisions are more stringent than those of such Act, the more stringent provisions shall apply:

1. Off-premises signs shall be permitted on parcels in the C-2 District only.
2. Except where otherwise required by this Section, off-premises advertising signs shall be set back a minimum distance of one hundred (100) feet from all lot lines.
3. There shall be a minimum of five hundred (500) feet between any two off-premises advertising signs along the same side of the road. A double face or V-type structure shall be considered a single sign.
4. An off-premises advertising sign's total surface area shall not exceed thirty-two (32) square feet, nor exceed a height of ten (10) feet.
5. No off-premises sign shall be erected on or over the roof of any building, nor have a sign above another sign.

### Section 9.7 Nonconforming Signs

A. It is the intent of this Section to permit the continuance of a lawful use of any sign or outdoor advertising structure existing at the effective date of adoption of this Ordinance or amendment thereto, although such sign or outdoor advertising structure may not conform with the provisions of this Article. It is also the intent that nonconforming signs and outdoor advertising structures shall not be enlarged upon, expanded or extended. Further, it is the intent that nonconforming signs and outdoor advertising structures shall be gradually eliminated and terminated upon their natural deterioration or accidental destruction. The continuance of all nonconforming signs within the Township shall be subject to the conditions and requirements set forth herein.

1. Changes: The faces, supports, or other parts of any nonconforming sign shall not be changed, altered, substituted, or enlarged unless the resultant changed, altered, substituted, or enlarged sign conforms to the provisions of this Article for the use it is intended, except as otherwise provided for.
2. Damages: Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its appraised replacement cost, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

**End of Article 9**

## Article 10 OFF-STREET PARKING and LOADING

### Section 10.1 Purpose

It is the purpose of this Article to establish standards and requirements to ensure that parking spaces shall be adequately provided and maintained by each property owner in every District for the off-street parking of motor vehicles as may be necessary, including in association with employees and patrons and the receiving and distribution of goods by motor vehicle, to prevent hazards and undue interferences among and between vehicles and pedestrians and protect the public health, safety and welfare.

### Section 10.2 General Requirements

For each dwelling, commercial, industrial, manufacturing or other similar business or service establishment hereafter erected, and located on a public highway, road or street in the unincorporated portions of the township, and including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable space off the public right-of-way which is adequate for the parking or loading of vehicles in proportions shown in Table 10-1, and such space shall be provided with safe ingress and egress. Such means of ingress and egress may be combined or provided separately. Approval for the location of such exit and entrance shall be obtained from the State Highway Department for all trunk line highways in the township, which approval shall also include the design and construction thereof in the interests of safety, adequate drainage and other public requirements. A minimum of one-hundred eighty (180) square feet, exclusive of drives, entrances and exits, shall comprise one automobile parking space. All parking space as required in this section, except that required for dwellings, shall be provided with adequate artificial lighting between any time extending from one-half (1/2) hour before sunrise when the use of such space is open to the public.

**Table 10-1  
Required Parking Spaces**

In addition to the parking spaces required below, parking spaces in the proportion of one (1) space for every two (2) persons employed shall be provided.

Use	Required Number of Parking Spaces
Dwellings.	One (1) space for each family unit occupying the premises.
Motels and Similar Establishments Offering Lodging.	One (1) space for every unit.
Hospitals and Institutions of Similar Nature.	One (1) space for every two (2) patients.
Theaters, Churches, Public and Private Halls, Amusement and Recreation Establishments, and All Places of Public Assembly.	One (1) space for every five (5) seats of seating capacity.
Offices and Professional Buildings.	One (1) parking space for every six hundred (600) square feet of floor area; provided, that doctors offices and clients shall be provided four (4) spaces for each doctor.
Restaurants and other Public Food Serving Establishments.	One (1) space for every one hundred (100) square feet of floor area.
Retail Stores and Shops.	One (1) space for every one hundred (100) square feet of floor area.
Personal Service Shops such as Barber and Beauty Shops.	One (1) space for every two hundred (200) square feet of floor area.
Taverns.	One (1) space for every fifty (50) square feet of floor area.
Manufacturing Establishments.	One (1) space for every four hundred (400) square feet of floor area.

**Section 10.3 Site Development Requirements for Off-Street Parking**

All off-street parking areas, except for single family and two family dwellings, shall be designed, constructed and maintained in accordance with the following standards and requirements.

**A. Driveways:** Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided. Two-way drives for ingress and egress to a parking area shall be not less than twenty-five (25) feet wide and all turning radii shall comfortably accommodate vehicle turning patterns. Each entrance to and exit from an off-street parking area shall be at least twenty-five (25) feet from any adjacent lot in a Residential District, and a minimum of ten (10) feet from all other lot lines.

**B. Parking Spaces and Maneuvering Lanes:** Each parking space within an off-street parking area shall be provided with adequate access by means of maneuvering lanes. Backing directly onto a public road right-of-way shall be prohibited. The layout of off-street parking areas shall comply with the following minimum standards:

Parking Pattern	Maneuvering Lane Width		Parking Space Width	Parking Space Length
	One-Way	Two-Way		
0° (Parallel)	11 ft.	18 ft.	9 ft.	23 ft.
30°- to 53°	13 ft.	22 ft.	9 ft.	20 ft.
54°- to 74°	14 ft.	22 ft.	9 ft.	20 ft.
75°- to 90°	15 ft.	23 ft.	9 ft.	20 ft.

**Section 10.4 Loading and Unloading Space Requirements**

**A. Additional Space:** Loading space required under this Section shall be provided as area additional to off-street parking space required under Section 10.2.

**B. Space Requirements:** There shall be provided an adequate space for standing, loading, and unloading services. Each space shall be a minimum of twelve (12) feet in width and twenty-five (25) feet in length, and fifteen (15) feet in height, open or enclosed. The site plan approval body may require a greater space length where necessitated by the anticipated type of truck traffic. The number of spaces shall be provided as follows:

<u>Gross Floor Area</u>	<u>Spaces Required</u>
Up to 5,000 square feet of gross floor area:	1 space, if determined necessary during site plan review.
5,001 to 50,000 square feet of gross floor area:	1 space.
50,001 or more square feet of gross floor area:	2 spaces, plus 1 space per each 100,000 square feet of gross floor area, or fraction thereof, in excess of the first 100,000 square feet.

**C. Access:** Access to a truck standing, loading, and unloading space shall be provided directly from a public road or alley and such space shall be so arranged to provide sufficient off-street maneuvering as well as adequate ingress and egress to and from the road or alley.

**D. Screening:** All loading and unloading areas that are adjacent to a different District or residential property, or face or are visible from residential properties roads, shall be screened.

**E. Location:**

1. A loading-unloading area shall not be located in any front yard.
2. A loading-unloading area shall not be located in a required side or rear yard setback except where such yard adjoins a Commercial or Industrial District, but in no case shall such loading-unloading area be located within ten (10) feet of the lot line.
3. In no case shall a loading-unloading area be located closer than fifty (50) feet to a residential lot line.

**End of Article 10**

## Article 11 LANDSCAPING and SCREENING

### Section 11.1 Purpose

It is the purpose of this Article is to establish standards and requirements to assure adequate landscaping and screening so that land uses minimize noise, air, and visual pollution; improve the appearance of off-street parking and other vehicular use areas; assure adequate buffering between differing uses; support the desired community character along property adjoining public rights-of-way; prevent soil erosion and soil depletion; and protect and preserve the appearance, character, and value of the community as a whole.

### Section 11.2 Uses Subject to This Article

The requirements of this Article shall apply to those uses for which site plan approval is required under Article 14, Site Plan Review, and any other use so specified in this Ordinance. This Article shall not apply to single family and two-family dwellings.

### Section 11.3 Landscape Plan Required

**A.** A detailed landscape plan is required to be submitted as part of a site plan (see Article 14). The plan shall be prepared at a minimum scale of 1" = 100' and shall identify all buffer areas (see Sections 11.4 and 11.5). The landscape plan shall include, but not necessarily be limited to, the clear delineation of the following:

1. Proposed plant location, spacing, size, common and botanical name, and growth habit of each plant type proposed.
2. Identification of grass and other proposed ground cover, including common and botanical name.
3. Existing and proposed contours.
4. Planting and staking details in either text or drawing form to ensure proper installation of proposed plant materials, including significant construction details to resolve specific site conditions such as tree wells to preserve existing trees.
5. Identification of existing trees and vegetative cover to be preserved and those trees of ten (10) inches or larger in diameter, measured five (5) feet from ground surface, to be removed.

### Section 11.4 Buffer Areas

**A. Side and Rear Yard Buffer Areas:** A vegetative buffer area shall be established along all side and rear lot lines. The buffer area shall not be used for storage, parking or for any other purpose except as a landscaped area.

1. The buffer area shall extend twenty (20) feet from the respective lot line. The buffer area shall be planted and maintained with evergreens such as spruce, pines, or firs, and deciduous trees. While such plantings need not be evenly spaced, the trees shall be provided at an overall rate of at least one (1) evergreen tree per thirty (30) linear feet, and one (1) deciduous tree per fifty (50) linear feet of property line length. At the time of their planting, evergreen trees shall be a minimum of six (6) feet in height and deciduous trees shall have a caliper of at least two and a half (2 1/2) inches, measured five (5) feet above the ground surface, and be a minimum of twelve (12) feet in height. The remainder of the buffer area shall be landscaped in grass, shrubs, trees and/or other ground cover.
2. In the case where the buffer yard abuts a parcel in a Conservation or Residential District, or where the buffer yard is in an Industrial District and abuts a Commercial District, the buffer yard shall also include a berm, wall or fence. Such berm, wall or fence, either individually or in combination, shall be at least five (5) feet in height. This height standard shall be increased by the site plan approving body if determined necessary to adequately mitigate negative impacts.

**B. Front Yard Buffer Areas:** A buffer area shall be established along all front lot lines. The buffer area shall not be used for storage, parking or for any other purpose except as a landscaped area. The buffer area shall extend twenty (20) feet from the respective lot line except in the case of Industrial Districts, where the buffer shall extend to the full depth of the required front yard setback for the respective building. The front yard buffer area shall be landscaped with a minimum of one (1) tree meeting the minimum size requirements specified in Section 11.4 above for each fifty (50) lineal feet, or portion thereof, of frontage adjoining the road right-of-way. The remainder of the front yard buffer area shall be landscaped in grass, shrubs, trees and/or other ground cover. Access ways from public rights-of-way through required buffer area shall be permitted, but such access ways shall not be subtracted from the lineal dimension used to determine the minimum number of required trees.



**Section 11.5 Parking Lot Landscaping and Screening:** See Section 10.3(J)

**Section 11.6 Minimum Standards of Landscape Elements**

**A. Quality and Composition:** Plant material shall be free of insects and diseases, and hardy to the climate. Plant species which are generally considered undesirable due to limited disease tolerance, low wood strength and/or high wood-splitting tendencies, such as boxelder, mulberry, and willows, are prohibited unless specifically authorized by the site plan approving body based on the manner in which the plant material is to be used or located. A mixture of plant material shall be required to protect against insect and disease infestation.

**B. Existing and Replacement Trees:** If existing plant material is labeled "To Remain" on site plans by the applicant or required by the site plan approval body, protective techniques such as fencing, placed at the dripline around the perimeter of the plant material, shall be indicated on the site plan. No vehicle or other construction equipment shall be parked or stored within the dripline of any plant material intended to be saved. In the event that existing healthy trees which are used to meet the minimum requirements of this Ordinance, or those labeled to remain are cut down, destroyed, damaged, or excavated at the dripline, as determined by the site plan approving body, the applicant shall replace them with trees that meet Ordinance requirements. Such replacement trees shall be planted at a rate of one (1) tree per two (2) inches of tree caliper of the tree cut down, damaged, or otherwise destroyed. Deciduous replacement trees shall have a minimum caliper of two (2) inches. Evergreen replacement trees shall be a minimum of eight (8) feet in height.

**Section 11.7 Installation, Maintenance and Completion**

All landscaping required by this Ordinance shall be planted prior to obtaining a Certificate of Occupancy or, where the applicant can demonstrate to the Zoning Administrator that seasonal conditions prohibit the installation of the plant material prior to desired occupancy, the plant material shall be installed within six months of receipt of such Certificate. All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner and according to accepted good planting and grading procedures. All plant material shall be maintained in a healthy condition, and free of refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first.

**Section 11.8 Fencing and Walls Construction**

All required fencing and walls shall be constructed and maintained in a sound manner to assure long-term structural integrity and visual character. Site plans shall include all necessary construction details to illustrate compliance with this requirement. The finished side of fencing shall face abutting properties.

**Section 11.9 Waivers and Modifications**

Any of the requirements of this Article may be modified through site plan review proceedings, provided the approving body makes a finding that identifies characteristics of the site or site vicinity that would make required buffer areas, fencing, or screening unnecessary, inappropriate, or ineffective, or where it would impair vision at a driveway or street intersection.

**End of Article 11**

## Article 12 ENVIRONMENTAL PROTECTION

### Section 12.1 Purpose

The purpose of this Article is to promote a healthy environment as it relates to the Township's natural resources; and sensitive ecosystems; the quality of the Township's visual environment, including the management of outdoor lighting and its impact upon traffic safety, adjacent land uses and the night sky; and the provision of adequate sewage disposal and potable water. All provisions of this Article apply to all structures, buildings and uses unless otherwise specified.

### Section 12.2 Natural Resources

**A. Compliance with Local, County, State, and Federal Regulations:** All land uses and construction activities shall conform to the provisions of this Ordinance and all local, county, state and federal regulations including, but not limited to:

1. Applicable fire safety and emergency vehicle access requirements of the State Construction Code and State Fire Marshall.
2. Requirements of the Michigan Department of Consumer and Industry Services and the Montcalm County Health Department.
3. Requirements of the Michigan Department of Environmental Quality including those applying to air and water quality protection, wetlands, stream crossings, fills in or near water bodies or in flood plains, and waste disposal.
4. Regulations related to loading/unloading, transport, storage, use and/or disposal of hazardous substances including fuels and other flammable liquids.
5. Requirements of the Federal Communications Commission.

**B. Discharges and Flammable/Hazardous Materials**

1. No use shall discharge, or otherwise result in, obnoxious, toxic or corrosive fumes or gases deleterious to the public health, safety or welfare, or otherwise be of a nuisance, including radioactive emissions.
2. No use shall discharge, or otherwise result in, dust, particulate matter, smoke, odorous gases, or other odorous matter in such quantities as to be offensive to the public health, safety and general welfare at or beyond the property line. This subsection shall not apply to farm operations in compliance with most current published Generally Accepted Agricultural Management Practices of the Michigan Commission of Agriculture.
3. Any use providing for atmospheric discharges that requires a permit from the Michigan Department of Environmental Quality or federal government shall have said permit(s) as a condition of approval for such use.
4. No use shall discharge, or otherwise result in, any materials of such nature or temperature as can contaminate any surface waters, land or aquifers, or otherwise cause the emission of dangerous or objectionable elements.

**C. Sensitive Lands:**

1. Where a portion of a parcel is characterized by important or sensitive environmental features, including wetlands, woodlands, or flood plains, new development on the parcel shall only occur on those portions of the parcel void of such features where reasonably feasible.
2. Except where required to do so by state or federal law, the Township shall not approve any land use which requires a county, state, or federal permit until such permit has been obtained and satisfactory evidence has been submitted verifying the acquisition of the necessary permits, or satisfactory evidence has been submitted to the approving body verifying the acquisition of such permit is not necessary.
3. The Township may require mitigation measures be taken to replace those resources disturbed or destroyed by a land use, or to otherwise lessen the impact of a new land use upon natural resources and sensitive areas.

**D. Clearing, Grading, and Drainage:** In order to protect soil resources, adjacent properties, roads, and public watercourses, and to provide for adequate drainage of surface water, the following regulations shall apply to all construction activities requiring permits pursuant to this Ordinance.

1. **Removal of Topsoil:** Stripping and removal of topsoil from a site is prohibited prior to the completion of all approved site improvements and the seeding, sodding, and landscaping of all disturbed areas except where expressly authorized as part of an approved site plan. "Disturbed areas" shall be interpreted to mean any area of a lot which is altered by grading or other construction activities and which area is not proposed to be paved or otherwise built upon. This subsection (1) shall not apply in the case of a single family dwelling for which a Zoning Permit and Building Permit has been issued, provided the topsoil to be removed is limited to the immediate area of the proposed site improvements according to such permits.
2. **Drainage/Flow Restrictions:**
  - a. Temporary and permanent grade surface of ground areas surrounding a building or structure shall be designed and landscaped such that surface waters flow away from the building or structure.
  - b. It shall be prohibited to increase the rate or quantity of runoff upon adjacent properties or public roads, to cause erosion or filling of a roadside ditch, stream or other water body, to block a public watercourse, or create standing water over a sewage disposal drainage field.

### Section 12.3 Potable Water, Sewage Disposal, and Refuse

**A. Potable Water and Sewage Disposal:** Any building intended for human occupancy and used for dwelling, businesses, industrial, recreational, or institutional purposes, shall not be erected, altered, used or moved upon any premises unless said building shall be provided with a safe, sanitary and potable water supply and a safe and effective means of collection, treatment, and disposal of generated wastes including human excreta and domestic, commercial, and industrial wastes. All sewage disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the Montcalm County Health Department as well as those of other applicable local, county, state, or federal agencies.

**B. Refuse:** The collection or storage of discarded material, discarded building materials, mobile homes, inoperable or unlicensed travel trailers or vehicles, or other similar refuse and waste materials, is prohibited except where such collection or storage is expressly authorized as a junk yard pursuant to Article 15, in a District that authorizes such use.

### Section 12.4 Lighting

**A.** No lighting shall in any way impair the safe movement of traffic on any road.

**B.** Lighting associated with a commercial, industrial, or other non-residential uses shall comply with the following:

1. A wall, fence, or berm, at least four (4) feet in height, shall be erected to prevent headlight glare from shining onto adjacent residential property. Such wall/fence shall in no way impair safe vertical or horizontal sight distance for moving vehicles.
2. Exterior lighting shall be designed and installed so that the surface of the source of light shall be hooded or louvered to the greatest extent practical to ensure that:
  - a. all emitted light is directed downward and confined to the lot or parcel upon which the light source is located.
  - b. light sources shall not be visible from beyond the lot lines and shall be so arranged to reflect light away from adjacent properties.
  - c. no more than one half (0.5) foot candle power of light shall cross a lot line five (5) feet above the ground.

**C.** Outdoor lighting which need not comply with the standards of (B) above shall be limited to outdoor recreation and amusement areas, and similar outdoor use of light, provided the lighting is designed with baffling and glare guards to ensure that no more than one half (0.5) foot candle power of light shall cross a lot line five (5) feet above the ground in a Residential District, and such lighting is turned off during hours the facility is closed to the public.

## Section 12.5 Vibration

The operation of any land use including equipment and devices associated therewith, that creates vibrations that are typically discernible by human senses at or beyond the lot line of the source, is prohibited. For the purposes of this Section, “typically discernible by human senses” means vibrational motion of such character to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or observation of moving objects.

## Section 12.6 Glare and Heat

Any operation which produces glare or heat shall be conducted within an enclosed building or other enclosure so as to be completely imperceptible from any point at or beyond the lot lines of the lot upon which the source of glare or heat is located.

## Section 12.7 Flood Plains and Water Courses

**A. Flood Plain Defined:** For the purpose of this Section, “flood plain” shall be defined as that land subject to being inundated in association with Turk Lake, the Flat River, or any other water course and water body, as may be established and published by the Corps of Engineers of the U.S. Army, the Federal Emergency Management Authority including as may be delineated on a Flood Insurance Map prepared under its direction, or as may be identified by a flood study performed by a licensed engineer with appropriate flood study expertise and found by the Township Board to be a reasonable measure for addressing the purpose of this Article and Section. A “50-year flood plain” shall be defined as that land subject to a one percent or greater chance of being inundated in any give year. A “100-year flood plain” shall be defined as that land subject to a one percent or greater chance of being inundated in any given year.

**B. Uses Permitted:** Irrespective of any other provisions of this Ordinance, no use shall be established on any portion of a lot where such portion is within a 100-year flood plain except as follows, and only where such use is authorized in the District:

1. Agriculture.
2. Parks, playgrounds, golf courses, preserves, trials, and similar outdoor recreation and conservation uses.
3. Required yard and setback areas.
4. Extraction operations.

**C. Review Procedures and Standards:** Any activity or use in a 100-year flood plan that requires grading, excavation, or filling, shall be subject to site plan approval according to Article 14. The Township Board shall be the approving body after receipt of a recommendation from the Planning Commission. Where the proposed use or activity is classified as a special land use in the District, the regulations of Article 15 shall apply.

**D. Standards:** Any use or alterations in a 100-year flood plain, or adjacent to a water course or water body, shall comply with the following in addition to all other provisions of this Ordinance:

1. No trees, shrubs or other vegetative cover shall be removed from that area within twenty-five (25) feet of the ordinary high water mark of the Flat River and its tributaries, except for the purpose of providing views or access to such water course. However, in no case shall more than twenty-five percent (25%) of such water frontage on any lot be disturbed by such removal activities. This provision shall not prohibit the removal of plant material that is dead, trees that are unsafe or have fallen, or noxious weeds or invasive species. All removal of vegetative material shall be undertaken manually and any soil exposed shall be replanted to minimize erosion.
2. No alterations or activities shall occur in a 100-year floodplain that have the effect of reducing the water impoundment capacity of the flood plain or significantly change the volume or speed of the flow of water or otherwise alter the natural free flow of the flood water.
3. In the case of a water course including the Flat River, no structure or building shall be erected within fifty (50) feet of its 50-year flood plain, if documented, or within one hundred (100) feet of an ordinary high water mark, which ever is greater.
4. No septic tank or drain field shall be located within fifty (50) feet of a 50-year flood plain, if documented, or within one hundred (100) feet of an ordinary high water mark, which ever is greater.
5. All uses, activities and alterations shall be subject to the regulations of the Michigan Department of Environmental Quality, Montcalm County Drain Commissioner, Michigan Construction Code including minimum floor elevations, and all other applicable agency regulations.

**End of Article 12**

## Article 13 ACCESS, SHARED DRIVEWAYS, and PRIVATE ROADS

### Section 13.1 Purpose

The purpose of this Article is to provide regulations and standards that will facilitate safe, practical and efficient traffic movement and vehicular access in the Township, including provisions addressing the design, construction and maintenance of private roads. The standards contained herein are intended to protect the public health, safety, and welfare, including minimizing congestion and potential for accidents, and better assure accessibility to property under emergency conditions. The regulations and standards of this Article apply to all properties in the Township unless specified otherwise, and shall be applied in addition to the requirements of the Michigan Department of Transportation, Montcalm County Road Commission, and other provisions of this Ordinance.

### Section 13.2 Lots to Have Access

All parcels and lots hereinafter created in the Township shall have frontage on a public road, or private road or shared driveway constructed and approved according to this Ordinance, and take their access from such frontage so as to provide safe, convenient access for fire protection, other emergency vehicles, and any required off-street parking. This Section 13.2 shall not apply to buildings and activities associated with a farm operation.

### Section 13.3 Driveways

**A. Approval Required:** All plans for structures to be erected, altered, moved or reconstructed, and use of premises, shall contain a plan for the proposed driveway access to the premises which shall be part of the plot plan or site plan pursuant to Article 14. No such plan shall be approved unless driveway access is onto a public or approved shared driveway or private road. This Section 13.3 shall not apply to buildings and activities associated with a farm operation.

**B. Standards:** Driveways shall meet the following minimum standards:

1. Driveways shall be within ten (10) degrees of perpendicular to the road, for a minimum distance of twenty (20) feet from the road right-of-way.
2. No driveway shall serve more than one (1) single family dwelling unless specifically approved otherwise.
3. Residential driveways shall be a minimum of ten (10) feet in clear unobstructed width, be clear and unobstructed to a minimum height of fifteen (15) feet, and have a sand, gravel, stone, or paved surface to facilitate emergency access.
4. Non-residential driveway ingress and egress points shall not be closer than one-hundred (100) feet to the intersection of any two (2) roads or closer than one hundred (100) feet to an adjacent driveway, except upon a finding by the site plan approving body that lesser separation distances shall not undermine the public health, safety and welfare based on vehicle speeds, projected turning patterns and vehicle trips.

### Section 13.4 Clear Vision Zone

**A. Corner Lot/Road:** No fence, wall, hedge, screen, sign, structure, vegetation or other obstruction shall be located so as to impede vision between the height of two and one-half (2 1/2) feet and ten (10) feet above road elevation on any corner lot, within the triangular area formed by the intersection of the two intersecting road right-of-way lines and a diagonal line connecting them at points twenty (20) feet from their intersection.

**B. Driveways:** No fence, wall, hedge, screen, sign, structure, vegetation or other obstruction shall be located so as to impede vision between the height of two and one-half (2 1/2) feet and ten (10) feet above road elevation on any lot or parcel within the triangular area formed by the intersecting lines of a driveway edge and road right-of-way line and a diagonal line connecting them at points twenty (20) feet from their intersection.

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## Section 13.5 Shared Driveways

**A. Shared Driveways Permitted:** Shared driveways, as defined in this Ordinance, are permitted in Montcalm Township provided such driveways comply with the regulations and standards of this Ordinance.

**B. Zoning Permit Required:**

1. No shared driveway as defined in this Ordinance, including a new shared driveway or a shared driveway existing on the effective date of this Ordinance, shall be established, extended, or relocated after the effective date of this Ordinance unless a zoning permit has been issued for such activity by the Zoning Administrator.

**C. Application and Review:**

1. Application: Shared driveways require approval, subject to an application. An application for a shared driveway shall include the following:
  - a. A plot plan drawn to a scale of not less than one inch equals 100 feet (1" = 100') delineating the proposed alignment of the driveway and the lots it is to serve, soil conditions, and existing and proposed grades.
  - b. Draft maintenance agreement signed by applicant/owner(s) to be recorded with the Township Clerk and County Register of Deeds providing for:
    - 1) A method of financing such shared driveway in order to keep the shared driveway up to the specifications of this Section.
    - 2) A workable method of apportioning the costs of maintenance and improvements to current and future lots along such shared driveway.
  - c. Draft easement agreement signed by the applicant/owner(s) to be recorded with the Township Clerk and County Register of Deeds providing for:
    - 1) Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
    - 2) A provision that the owners of any and all of the property using the shared driveway shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress, public utilities, and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitee, vendors, tradesman, delivery persons, and others bound to or returning from any of the properties having a need to use the driveway.
2. Review: The approving body for an application for a shared driveway shall be the Zoning Administrator. The Zoning Administrator shall forward all relevant application materials for review and comment to the Fire Chief and Township Attorney and, where the Zoning Administrator considers necessary, to the Township Engineer.
3. Action: Upon a finding that the application materials conform to the requirements and standards of this Section and Ordinance, the Zoning Administrator shall approve, or approve with conditions, the application. Prior to an approval action, the Zoning Administrator shall inform the applicant in writing of tentative approval of the application and that final approval shall be granted once the Zoning Administrator has received copies of the approved shared driveway easement agreement and maintenance agreement recorded with the Montcalm County Register of Deeds.

**D. Standards:** Shared driveways shall comply with the following standards in addition to all other applicable standards of this Ordinance:

1. The shared driveway surface shall be a uniform minimum twelve (12) feet wide, measured edge to edge, with segments twenty-four (24) feet wide and fifty (50) feet long, every three hundred (300) feet, to accommodate passing vehicles.
2. Shared driveways shall not serve more than three (3) dwelling units.
3. All addresses served by the shared driveway shall be clearly marked at its point of intersection with a road, and such addresses shall also be clearly marked at any location a single driveway splits from the shared driveway.
4. No shared driveway shall be posted with a name.
5. The shared driveway shall have an easement width of a minimum of sixty-six (66) feet.

## Section 13.6 Private Roads

**A. Private Roads Permitted:** Private roads, as defined in this Ordinance, are permitted in Montcalm Township provided such roads comply with the regulations and standards of this Ordinance.

**B. Zoning Permit Required:** No private road, including a new private road or a private road existing on the effective date of this Ordinance, shall be constructed, extended, improved, or relocated unless a Zoning Permit has been issued for such construction by the Zoning Administrator, after approval of the Township Board.

**C. Application for Zoning Permit for Private Road Construction:** Application for a private road shall require site plan approval according to Article 14 except that the Township Board shall be the approving body following the receipt of a recommendation from the Planning Commission. Approval of such application shall result in the issuance of a Zoning Permit authorizing construction of such road. In addition to the data required by Article 14 for site plan approval, the following additional information shall be provided:

1. **Development Plan:** A general property development plan identifying the following:
  - a. Project description, in both narrative and map form, including the location of the proposed private road easement and location of proposed lots to gain access from said private road.
  - b. The legal description of the proposed private road easement.
  - c. Construction plans and drawings illustrating the proposed design and construction features of the proposed road and easement, including existing and proposed elevation contours within all areas to be disturbed or altered by construction. Proposed traffic control measures (including signs) and proposed road names shall also be indicated.
2. **Easement Agreement:** Road easement agreement signed by the applicant/owner(s) to be recorded with the Township Clerk and Montcalm County Register of Deeds providing for:
  - a. Easements to the public for purposes of emergency and other public vehicles, and easements for utilities.
  - b. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, vendors, tradesman, delivery persons, and others bound to or returning from any of the properties having a need to use the road.
  - c. A provision that substantially conforms to the following:

"This parcel of land has private road access across a permanent easement which is a matter of record and a part of the deed. This notice is to make Purchaser aware that this parcel of land has egress and ingress over this easement only. Neither Montcalm County nor Montcalm Township has any responsibility for maintenance or upkeep of any improvement across this easement, except as may be provided by an established special assessment district. Maintenance is the responsibility of the owners of record. The United States mail service and the local school district are not required to traverse this private improvement and may provide service only to the closest public access. (Michigan P.A. 134 of 1972, as amended.)"
3. **Maintenance Agreement:** Road maintenance agreement signed by applicant/owner(s) to be recorded with the Township Clerk and County Register of Deeds providing for:
  - a. A method of initiating and financing such road in order to keep the road up to properly engineered specifications and free of snow or debris.
  - b. A workable method of apportioning the costs of maintenance and improvements to current and future owners.
  - c. A notice specifying that the proposed development may be subject to the establishment of a special assessment district by the Township Board, as provided by law, to ensure continued and adequate maintenance of the road in the event the necessary maintenance is not undertaken by the property owners that are served by such road, and that no public funds of the Township shall be used to build, repair, or maintain the private road except through such an assessment district.

**D. Use of Private Road:** Upon completion of the construction of a private road as authorized by an approved site plan and Zoning Permit, no construction shall be initiated nor shall any Zoning Permit be granted for any structure or use of a lot that relies upon such road for access until the Township Board grants final approval, by motion, for use of the road as stated in the application. The Township Board shall grant such final approval when the following conditions have been met:

1. The applicant's civil engineer shall certify to the Township Board, in writing, that the required improvements were made in accordance with this Article and Ordinance and all approved plans. The applicant's engineer shall be registered in the State of Michigan.
2. The Township Engineer has determined that the required improvements were made in accordance with this Article and Ordinance and all approved plans, where requested by the Township Board to perform



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such an assessment.

3. The Township Board has received copies of the approved road easement agreement and road maintenance agreement recorded with the Montcalm County Register of Deeds.

**E. Design Standards:** All private roads shall meet the design standards of the Montcalm County Road Commission for public roads of similar purpose and intended traffic load, including right-of-way width, horizontal and vertical grades, curve radii, drainage, and cross section materials and thicknesses.

**F. Existing Nonconforming Private Roads**

1. Maintenance and Existing Lots: Private roads which were lawful prior to the adoption of this Ordinance or amendment thereto, but that are inconsistent with the standards herein, may continue and undergo routine maintenance for safety purposes. The erection of new dwellings or other principal buildings on existing lots which front along such private road is permitted provided the Township Board finds that the existing road conditions are reasonably capable of affording sufficient access to the anticipated additional lots or uses, and the public health, safety and welfare will be preserved. The Township Board may require improvements to all or a portion of such road as a condition for the erection of new dwellings or other principal buildings on existing lots.
2. Extensions: No private road that was lawful prior to the adoption of this Ordinance or amendment thereto, but that is inconsistent with the standards herein, shall be extended more than two hundred (200) feet in length, or be subject to an increase in the number of building sites through the partitioning of land along such road or road extension, except upon the reconstruction of the entire length of the private road affected by the anticipated increased traffic and according to the standards of the Montcalm County Road Commission including horizontal and vertical grades, curve radii, drainage, and cross section materials and thicknesses, unless the Township Board finds that the existing road conditions are reasonably capable of affording sufficient access to the anticipated additional lots or uses, and the public health, safety and welfare will be preserved. The Township Board may require improvements to all or a portion of such road as a condition for the erection of new dwellings or other principal buildings on existing lots.

**End of Article 13**

## Article 14 SITE PLAN REVIEW

### Section 14.1 Purpose

It is the purpose of this Article to specify standards, application and data requirements, and the review process that shall be followed in the preparation of site plans as required by this Ordinance. These requirements are incorporated into the Zoning Permit application process to ensure that the appropriate bodies are afforded an opportunity to review and evaluate proposed uses and development of sites with regard to such considerations as parking, vehicular and pedestrian circulation, drainage, landscaping and screening, signage, lighting, environmental and community character protection, and conformance with all applicable provisions and standards of this Ordinance. This Article establishes a review process that requires the application materials to be subject to Planning Commission approval except in the case of a Special Land Use, in which case the application materials shall be subject to final action by the Township Board after receiving a recommendation from the Planning Commission.

### Section 14.2 Site Plan Approval Required

**A. Uses Requiring Site Plan Approval:** Except as provided by subsection (1) below, site plan approval is required prior to the Zoning Administrator's issuance of a Zoning Permit for all authorized uses including, but not limited to, commercial and industrial uses, special land uses, and condominium and platted subdivisions.

1. **Exceptions:** Site plan approval shall not be required for farm buildings and single family and two-family dwellings and accessory uses and structures thereto, including temporary dwellings. See Sec. 2.4(B) regarding plot plan approval for single family and two-family dwellings and accessory uses and structures thereto.

### Section 14.3 Review Procedures

**A. Preliminary Site Plan Required:** Prior to preparing a detailed final site plan and seeking approval of such final site plan, the applicant shall seek approval of a preliminary site plan for the purpose of receiving approval of the general design and layout of the project. A preliminary site plan shall be reviewed and acted upon in the same manner as a final site plan, as delineated in subsections (B) – (E) below.

1. **Level of Detail:** The preliminary site plan shall be prepared according to the manner and information required for a final site plan pursuant to Section 14.3(B), except that detailed construction drawings to address specific site improvements are not necessary. However, the detail of the preliminary information shall adequately portray the arrangement and feasibility of critical components of the project such as, but not limited to, preliminary storm water management including flow direction and preliminary location of detention/retention basins; preliminary grading including limits of clearing and proposed contours at minimum two (2) foot intervals; vehicular circulation including road alignments, parking spaces and parking circulation; lot areas and lot lines; signage; and landscaping.
  - a. A preliminary site plan shall be evaluated according to the level of information required at the preliminary plan level. A preliminary plan shall be approved if it contains the information required by, and is in compliance with this Ordinance, the conditions imposed pursuant to this Ordinance, other Township planning documents, other applicable ordinances, and state and federal statutes.
2. **Approval Period:** Approval of the preliminary site plan is valid for a period of one (1) year. If a complete final site plan has not been submitted during this period, the approval of the preliminary site plan shall be null and void. This time limit may be extended by the site plan approval body upon its finding that no substantial changes have occurred to ordinance regulations, abutting properties, or other conditions that suggest revisions to the layout and/or design of the development. In the case of an expired preliminary site plan that is not granted an extension of time, such plan shall not undergo review or action except upon a wholly new application according to Section 14.3.
3. **Sketch Plan Option:** Prior to the submission of a preliminary site plan, an applicant may submit a sketch plan of the proposed development which identifies basic development features such as property location and lot lines and the general location of proposed buildings, roads, and parking areas. The purpose of such submittal is to for the applicant to receive initial feedback from the Planning Commission regarding the appropriateness of the proposal prior to moving forward with the preparation of a more detailed preliminary site plan. Given that critical development information is not required for a sketch plan such as storm water management, grading, road design, and the limits of grading and clearing, comments offered in the course of reviewing a sketch plan shall not be legally binding nor be interpreted as assuring a specific action on any subsequent preliminary application submitted.

**B. Final Site Plan Application Submittal, Distribution and Data:** Twenty (20) copies of a final site plan application shall be submitted to the Zoning Administrator along with any application fees. The application shall consist of a form available from the Zoning Administrator, and the final site plan itself. Upon receipt of the application materials, the Zoning Administrator shall record the date of their receipt and transmit copies to the Planning Commission, Township Board, and other agencies or individuals selected to review such plans including but not necessarily limited to Township departments and staff, engineering and planning consultants, and the County Road Commission and Drain Commissioner. The Zoning Administrator shall request all reviewing agencies to respond within twenty (20) days of receipt of the materials. The Planning Commission need not delay taking action on the application if such response has not been received within such period.

1. The site plan shall be provided on a professional quality drawing of scale not less than 1" = 100' and shall clearly present the required information. All information depicted shall be designed by a professional engineer, land surveyor, or landscape architect licensed in Michigan and shall bear the seal and signature of the licensed individual. The site plan shall present all necessary information in a clear and comprehensible fashion and be of such clarity and detail to permit determination of its conformance to this Ordinance and the satisfactory construction of the project, if approved, to ensure public health, safety and welfare.
2. A final site plan shall include, at a minimum, the following except where the Planning Commission determines, upon a request by the applicant, that the waiving of specific submittal items identified below, due to the particular character of proposed development or site or surrounding conditions, shall not undermine officials' ability to effectively evaluate the extent to which the site plan complies with the standards of this Ordinance and protect the public health, safety and welfare:
  - a. The applicant's full name, address and phone number, and the name and address of the person and firm who prepared the plan and the date on which each drawing contained within was prepared or last revised.
  - b. A vicinity sketch showing the location of the site in relation to the surrounding road system for a minimum distance of one-quarter mile in all directions. The vicinity sketch, or other component of the site plan materials, shall also identify the existing zoning classification and current use of all properties within three hundred (300) feet in every direction of the proposed use, including land uses on the opposite side of any road, and the location of all structures and buildings within one-hundred (100) feet of the property.
  - c. A property line survey, correlated with a legal description, showing property line dimensions and bearings, lot area, graphic scale, and a north arrow.
  - d. Existing uses, buildings, structures, roads, easements and all other existing site improvements, with a designation as to which are to be retained, removed, or otherwise altered, and the delineation of any driveways or other curb cuts within one-hundred (100) feet of the property.
  - e. Existing natural features on and within three-hundred (300) feet of the site including woodlands; wetlands; drainage courses, water bodies, and 100-year flood plain areas; topography at no greater than two-foot contour intervals; and soils by type and drainage features according to the County Soil Survey or well/boring logs. The location of all trees of ten inches (10") or greater in diameter not otherwise part of a woodland area, measured at five feet (5') above ground surface, shall be identified by size and type.
6. Required front, side and rear yard setbacks for principal buildings in the district.
7. Proposed uses, buildings, structures, and lots, including a project narrative that addresses the intended use of the property and each building proposed; the acreage devoted to each use if multiple uses are proposed; the total number of dwelling units and density for each housing type and for the project as a whole; total and usable floor area of each building; carports or garages; amount of recreational and open space and type of recreation facilities to be provided; computations associated with the number of parking spaces required and provided, and related information as pertinent or otherwise required by this Ordinance.
8. Proposed public right-of-ways, private easements, and deed restrictions.
9. Proposed roads, drives, and alleys (including widths, cross-sections and profiles); acceleration, deceleration and turn lanes; driveways, parking spaces, and parking aisles, with an indication of the total number of spaces and typical space and aisle/driveway dimensions, the direction of travel, and the inside radii of all curves including driveway curb returns; and sidewalks and other non-motorized travel ways. Proposed traffic control measures (including signs) shall also be indicated.
10. Source and location of all public and private utilities including potable water, sewage disposal, and electrical and communication lines, and the necessary easements that exist or are proposed to be established for installation, repair and maintenance of such utilities.

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11. Proposed accessory buildings and structures including trash receptacles and enclosures, signs, and lighting.
12. A graphic illustration of the location and extent to which natural features on the site shall be disturbed or otherwise cleared including those under subsection (5) above.
13. A landscaping/screening plan in compliance with the requirements of Article 11.
14. A grading, storm drainage and storm water management plan, including soil erosion and sedimentation control measures and spot elevations to adequately portray drainage patterns and final elevations and grades. Such plan shall include the location of drainage easements, exterior drains, dry wells, catch basins, retention and/or detention areas, sumps and other facilities designed to collect, store or transport storm water. The point of discharge for all drains and pipes shall be specified on the site plan as well as invert and related elevations, and pipe lengths and slope, to construct the same. Such plans shall document the extent of clearing of vegetation and the extent of other clearing, cuts, fills, or other grading, and the finished floor elevations of all buildings.
15. The location and specifications for any existing or proposed above or below ground storage facilities for any toxic or hazardous substances, as well as any containment structures or clear zones required by government authorities; a complete inventory of toxic or hazardous substances to be stored or used on the site, including the quantity of substances, substance names and characteristics; the proximity of such materials to ground water aquifers, wetlands, surface waters, existing and proposed wells, storm sewers, storm drains, and sanitary sewers; and a proposed storage and disposal plan for such materials including their transfer and/or transport.
16. Elevation drawings of all buildings and floor plans for all buildings to be occupied.
17. A statement identifying all other federal, state and local permits required, if any.
18. Anticipated project completion schedule.
19. Such other information as is necessary to enable the reviewing body to determine whether the proposed site plan shall conform to the provisions of this Ordinance including, but not necessarily limited to, aerial photographs and environmental and traffic impact and mitigation reports.

**C. Review for Completeness:** Upon receipt of the application materials, the Planning Commission shall review the materials and determine their completeness. If determined to be insufficient in adequately portraying the required information, the Planning Commission shall delay further consideration of the application until such time that the application materials have been made satisfactory, and shall notify the applicant in writing of the deficiencies.

**D. Planning Commission Action on Final Site Plan:** Upon receipt of a complete application, the Planning Commission shall review the final site plan application materials and determine their conformity with the applicable provisions of this Ordinance including the standards of Section 14.4. After conducting a review, the Planning Commission shall deny, approve, or conditionally approve the final site plan as it pertains to requirements and standards contained in this Ordinance, including the standards of Section 14.4. A site plan shall be approved if it contains the information required by, and is in compliance with this Ordinance, the conditions imposed pursuant to the Ordinance, other Township planning documents, other applicable ordinances, and state and federal statutes. Any conditions required by the Planning Commission for approval shall be stated in writing, together with the reasons, and delivered to the applicant (See Sec. 21.2 regarding conditional approvals). The Planning Commission may require the submittal of a fully revised final site plan upon its determination that the conditions necessary for the approval of such plan are of such an extent or character that a fully revised set of documents is necessary before an approval action can be granted.

1. Issuance of Zoning Permit: Upon approval or conditional approval of the site plan by the Planning Commission, and upon all other approvals as may be required by this Ordinance, such as in the case of a Special Land Use, the Zoning Administrator shall issue a Zoning Permit authorizing the use and construction subject to the approved application.
2. Building Permit Required: Upon issuance of a Zoning Permit, no construction shall be initiated prior to the acquisition of all necessary Building Permits from the Building Inspector.

**E. Planning Commission Recommendation on Final Site Plan for Special Land Use and Final Action by the Township Board:** In the case of a Special Land Use and upon receipt of a complete application, the Planning Commission shall review the final site plan application materials and determine their conformity with the applicable provisions of this Ordinance including the standards of Section 14.4. After conducting a review, the Planning Commission shall recommend to the Township Board to deny, approve, or conditionally approve the final site plan as it pertains to requirements and standards contained in this Ordinance, including the standards of Section 14.4. The Planning Commission may recommend conditions in association with an approval (See Sec. 21.2 regarding conditional approvals). The Township Board shall then carry out final review and approval proceedings as described in (D) above.

**F. Approved Site Plans:** Three (3) copies of an approved site plan, with any conditions contained within, shall be maintained as part of the Township records for future review and enforcement. One (1) copy shall be returned to the applicant. Each of the three approved copies shall be signed and dated with the date of approval specified, by the Planning Commission Chairperson and Zoning Administrator or by the Township Supervisor and Zoning Administrator in the case of a Special Land Use.

**G. As-Built Drawings:** The applicant shall submit three (3) copies of as-built drawings upon completion of construction activities, but no later than sixty (60) days from the issuance of a permit of occupancy by the Building Inspector. Such drawings shall identify all improvements made upon the site including utility services.

#### Section 14.4 Site Plan Approval Standards

**A. Specific Site Development Standards:** Each preliminary and final site plan shall conform with the specific site development standards of this Ordinance including, but not limited to, requirements pertaining to lot area, lot width, setbacks, heights, permitted uses, nonconformities, lighting, potable water, sewage disposal, and the provisions of:

1. Article 7, Standards for Specific Land Uses.
2. Article 9, Signs.
3. Article 10, Off-Street Parking and Loading.
4. Article 11, Landscaping and Screening.
5. Article 12, Environmental Protection.
6. Article 21, Supplemental Provisions.
7. Other Articles as applicable.

**B. General Site Plan Approval Standards:** In addition to compliance with the standards of subsection (A) above, all site plans shall comply with the following general site plan approval standards:

1. All elements of the Plan shall be harmoniously and efficiently organized in relation to the size and character of the lot, the manner in which buildings and support facilities on the lot relate to one another both visually and physically, and the character of the proposal as viewed from nearby properties and roads and in relation to the intent of the District in which the property is located.
2. The site plan shall be of a character that supports the purpose of the District in which the development is to be located, as described in the Purpose tables of Article 3.
3. The site plan shall not impede the normal and orderly development, improvement, or enjoyment of surrounding property for uses permitted in the District, including matters pertaining to visual impacts from lighting, signage, outdoor storage, and off-street parking.
4. The site plan shall preserve the environmental character of the site insofar as practical by minimizing the removal or disturbances to on-site natural features such as trees, woodlands, soils, topography, water courses and wetlands.
5. The site plan shall provide for the removal of storm water so as to minimize on-site flood conditions and assure the well being of the users of the property, while not adversely affecting adjacent properties and public and natural drainage systems due to flooding, erosion, sedimentation, or other negative impacts. Storm water management plans shall rely on existing drainage patterns where practical and minimize topographic alterations, and incorporate the necessary measures to discourage soil erosion and sedimentation and the discharge of impurities into the groundwater and nearby water courses.
6. The site plan shall provide vehicular and non-motorized circulation and parking in a manner that ensures visually clear, safe, convenient and efficient travel in the site and at ingress and egress points, including minimizing congestion and conflicting turning patterns, minimizes negative impacts upon abutting properties and roads including coordination with the existing and planned public circulation system and improvements thereto and the avoidance of unnecessary curb cuts, and ensures that all buildings shall be so arranged as to permit emergency access by some practical means to all sides.
7. The site plan shall provide for the appropriate location of all necessary and proposed utilities. Underground facilities shall be provided to the greatest extent feasible.
8. Site plans shall conform to all applicable Township planning documents including the goals and objectives of the Montcalm Township Master Plan, other applicable ordinances, and state and federal statutes.

**Section 14.5 Conformity to Approved Site Plans**

Property which is the subject of site plan approval shall be developed in compliance with the approved site plan and any approved changes thereto. If construction or use of the property does not conform to such approved plans, the approved Zoning Permit shall be subject to revocation by the Zoning Administrator pursuant to Section 2.4(C).

**Section 14.6 Changes to Approved Site Plan**

**A. Site Plan Changes:** No changes shall be made to an approved site plan prior to, during, or after construction except according to the following procedures:

1. Major Changes: Major changes to an approved site plan shall be reviewed and acted upon according to Section 14.3. A “major change” shall include the following:
  - a. a change in excess of five (5) feet in the location of vehicular circulation ways, parking areas, or exterior building walls.
  - b. a change in the number of accesses to a street or alley or any other change impacting the basic circulation pattern and/or traffic flow.
  - c. a reduction or increase of more than four (4) parking spaces or one-hundred (100) square feet of floor area.
  - d. an increase in the number of dwelling units or the realignment of lot lines in a platted or condominium subdivision where such realignment exceeds five (5) feet at any single point.
  - e. an increase of more than three (3) feet in building height.
2. Minor Changes: Minor changes shall be subject to Zoning Administrator approval. Approved changes shall be clearly specified in writing and signed by the Zoning Administrator. The Zoning Administrator shall keep accurate records of approved changes. The Zoning Administrator may defer action on a minor change to the Planning Commission or, in the case of a Special Land Use, to the Township Board.
  - a. Minor changes to an approved site plan shall include changes not otherwise identified as a major change in (A)(1) above including changes to required landscaping and screening where the change will not alter the overall appearance and effectiveness of the required landscaping and screening, and changes to the location, elevation or grade of storm sewer, sanitary sewer, or other utilities where the Township Engineer has approved such changes.

**Section 14.7 Pre-Existing Site Plans Under Review**

All development subject to site plan approval shall comply with the regulations and standards of this Ordinance except in the case where a development plan has received preliminary site plan approval prior to the effective date of this Ordinance or amendment thereto, in which case the final site plan shall be reviewed using the procedures and substantive standards under the ordinance in effect at the time of the preliminary plan approval, provided the final site plan is filed with the Zoning Administrator within one year of the effective date of this Ordinance or amendment thereto and contains all information required and accompanied by all required fees.

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**End of Article 14**

## Article 15 SPECIAL LAND USES

### Section 15.1 Purpose

It is the purpose of this Article to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand, practical latitude for the landowner, investor or developer, but that will, at the same time, promote the purpose of this Zoning Ordinance and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land uses. In order to provide control and reasonable flexibility, this Article provides for the review of certain specified land uses, referred to as "special land uses," which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and/or to the community as a whole. Land uses and structures possessing these characteristics may be authorized within certain zoning districts as specified in Article 3 (Zoning Districts), by the issuance of a Zoning Permit for the specified Special Land Use. This Article establishes a review process that requires the application materials to be subject to Planning Commission review and final action by the Township Board after receiving a recommendation from the Planning Commission.

### Section 15.2 Review Procedure

**A. Review/Approval:** The review procedures for an application for a Special Land Use shall be identical to the review and approval procedures for site plans according to Article 14, including the information to be submitted and the determination of application completeness, except as otherwise clarified below:

1. **Use/Site Plan Inseparable:** An application for a Zoning Permit for a Special Land Use shall be an application to determine the appropriateness of both the proposed use on the subject property, and the manner in which the proposed use is to be arranged and function on the site as delineated in the required site plan. The use and site plan shall be viewed as inseparable and shall be acted upon through a single motion of approval, approval with conditions, or denial.
2. **Application:** An application for a Zoning Permit for a Special Land Use shall consist of the following:
  - a. An application form available from the Zoning Administrator.
  - b. A preliminary site plan prepared according to Sec. 14.3(A).
  - c. A detailed description of the proposed project, in narrative form.
3. **Preliminary Approval/Public Hearing:** An application for a Zoning Permit for a special land use shall require Township Board action on a preliminary application, following the submittal of a recommendation by the Planning Commission on such application. Upon finding that the application materials are complete, and prior to the Planning Commission forwarding a recommendation to the Township Board regarding action on a preliminary application, the Planning Commission shall hold a public hearing on such application. Notice of the hearing shall comply with Section 2.11. Following receipt of the Planning Commission's recommendation, the Township Board shall deny, approve, or approve with conditions the preliminary application for special land use/site plan approval.
  - a. Action on the preliminary application by the Planning Commission and Township Board shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions recommended. The Planning Commission and Township Board shall refer to the approval standards set forth in Sec. 15.6 in addition to those specified for site plan approval (Sec. 14.4) prior to taking preliminary action.
4. **Final Approval:** Following approval of a preliminary application, final application approval shall similarly require Township Board action after receiving a recommendation from the Planning Commission on such application. A public hearing on the final application shall not be required provided such final application is substantively similar to the approved preliminary application including both the character and features of the use and the site plan for the use.
  - a. Action on the final application by the Planning Commission and Township Board shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions recommended. The Planning Commission and Township Board shall refer to the approval standards set forth in Sec. 15.6 in addition to those specified for site plan approval (Sec. 14.4) prior to taking final action.



**Section 15.3 Appeals**

A person aggrieved in association with a special land use decision may appeal the special land use application decision to the Zoning Board of Appeals.

**Section 15.4 Reapplication**

No application for a Zoning Permit for a special land use which has been denied wholly or in part by the Township Board shall be resubmitted until the expiration of one (1) year from the date of such denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the original action, as determined by the Township Board. A reapplication shall require a new fee and the process will follow all provisions of Section 15.2.

**Section 15.5 Changes**

**A. Site Plan:** Changes to an approved site plan shall comply with the application and review procedures of Section 14.6. In the case where a proposed site plan change constitutes a major change according to Section 14.6, the Planning Commission shall hold a public hearing on such site plan change according to the notice requirements of Section 2.11. If the Township Board determines that such major change would alter the essential character of the site plan, the proposed change shall not occur until such change is applied for and approved according to the application and review procedures of Section 15.2.

**B. Use or Activity:** A change in the character of the use or activity from what the originally approved Zoning Permit authorized shall not occur until such change is applied for and approved according to the application and review procedures of Section 15.2. Examples requiring a new application and review procedure include the addition of land to the legal description of the original Zoning Permit for the special land use, the establishment of another special land use, and an expansion or increase in intensity of use including but not necessarily limited to the erection of additional buildings or the addition of two-hundred (200) square feet of floor area.

**Section 15.6 Approval Standards**

**A. General Standards:** No special land use application shall be approved except where the proposed use and development complies with the following standards:

1. Be harmonious with the Montcalm Township Master Plan.
2. Be harmonious with the general objectives, intent and purposes of this Ordinance.
3. Be of such character to be compatible with adjacent conforming uses of land.
4. Be designed, constructed, operated and maintained so as to be appropriate in appearance and harmonious with the existing or intended character of the general vicinity. 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 of vehicular use and parking areas.
5. Not be hazardous or disturbing to existing or future uses in the same general vicinity.
6. Be served adequately by essential public facilities and services such as roads, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, and schools; and minimize the impact of traffic generated by the proposed development on adjacent properties.
7. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, glare, and odors.
8. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to the natural environment including air, soil, surface water, and ground water resources.
9. Not create excessive additional requirements at public cost for public facilities and services.
10. Comply with the site plan approval standards of Section 14.4.

**B. Specific Standards:** In addition to compliance with the above standards in subsection (A), special land uses shall comply with the standards and regulations applicable to each specific special use as may be identified in Article 7.

**End of Article 15**

**Article 16**  
**ZONING BOARD of APPEALS (ZBA)**

**Section 16.1 Purpose**

The purpose of this Article is to establish a Zoning Board of Appeals (ZBA) pursuant to Public Act 110 of 2006, including its responsibilities, procedures, and standards of review, to ensure that the objectives of this Ordinance are fully and equitably achieved.

**Section 16.2 Creation and Membership**

**A. Establishment and Appointment of Members:** The ZBA first established by the Montcalm Township Zoning Ordinance adopted on May 6, 1981, as amended, is hereby retained in accordance with Public Act 110 of 2006. The ZBA shall consist of five (5) members, appointed by the Township Board. One of the members shall be a member of the Planning Commission. One of the members may be a member of the Township Board but shall not serve as Chairperson. No more than one (1) member of the ZBA may be selected from each of the Planning Commission and Township Board. The remaining regular members, and any alternate members, shall be selected from the electors of the Township residing within. The members selected shall be representative of the population distribution and of the various interests present in the Township. An employee or contractor of the Township Board may not serve as a member of the ZBA.

1. **Alternate Members:** The Township Board may appoint not more than two (2) alternate members to the ZBA, each appointed for a term of three (3) years. No alternate member may be either a member of the Township Board or the Planning Commission. The alternate members may be called as needed, on a rotating basis, to sit as regular members of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings of the ZBA. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member shall serve on a case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the ZBA.

**B. Terms of Appointment:** Members shall be appointed for three (3) year terms except in the case of a Planning Commission and/or Township Board member serving on the ZBA, whose terms shall be limited to the time they are members of the Planning Commission or Township Board. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term. Members may be reappointed.

**C. Removal from Office / Conflict of Interest:** A member of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest constitutes malfeasance in office.

**Section 16.3 Organization**

**A. Rules of Procedure and Officers:** The ZBA may adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The ZBA shall annually elect from its members a chairperson, vice-chairperson, and secretary.

**B. Meetings and Quorum:** Meetings of the ZBA shall be held at the call of the chairperson and at such other times as the ZBA in its rules of procedure may specify. A majority of the total regular membership of the ZBA shall comprise a quorum. The ZBA shall not conduct official business unless a quorum is present. All meetings shall be open to the public and conducted pursuant to the requirements of the Open Meetings Act.

**C. Oaths and Witnesses:** The chairperson may administer oaths and compel the attendance of witnesses.

**D. Records:** The ZBA shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk, and shall be a public record according to the Freedom of Information Act. All minutes shall state the grounds for each determination, including findings of fact and conclusions.

## Section 16.4 Jurisdiction

The ZBA shall act upon questions as they arise in the administration of this Ordinance and take other actions as specified in this Ordinance. The ZBA shall perform its duties and exercise its powers as provided in Public Act 110 of 2006. The ZBA shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but shall have the power to act on those matters so specified in this Ordinance including Ordinance interpretations, variances, and the review of an order, requirement, decision, or determination made by an administrative official or body charged with the enforcement of this Ordinance.

## Section 16.5 Appeals for Administrative Reviews

**A. Authority:** The ZBA shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other body or official in administering or enforcing the provisions of this Ordinance. Within this capacity the ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of such body or official. The ZBA shall have all the powers of the body or official from whom the appeal is taken. However, in no case shall the ZBA hear an appeal of a special land use or planned unit development decision. Such appeals shall be subject to circuit court appeal only.

**B. Standards:** The ZBA shall reverse or otherwise modify the decision of such body or official from whom the appeal is taken only if it finds that the action or decision appealed:

1. was arbitrary or capricious, or
2. was based upon an erroneous finding of a material fact, or
3. constituted an abuse of discretion, or
4. was based upon erroneous interpretation of the Zoning Ordinance or zoning law, or
5. did not follow required procedures.

### C. Procedures:

1. Application Requirements: A written application for an appeal for administrative review shall be completed and filed with the Zoning Administrator on forms established for that purpose, within twenty-one (21) days after the date of the meeting during which the meeting minutes addressing the decision being appealed was approved. Application for an administrative review shall specify, at a minimum, the name, address, and phone number of the applicant; the decision being appealed; and the basis for the appeal. A minimum of five (5) copies of the completed application shall be submitted along with any application fees.
2. Stay: An appeal for an administrative review filed under this Section stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the ZBA, after the notice of appeal is filed, that by reason of facts stated in the permit, a stay would in the opinion of the officer or body would cause imminent peril to life or property. If such a certification is filed, the proceedings shall only be stayed by a restraining order. A restraining order may be granted by the ZBA or by the circuit court, on application, on notice to the officer or body from whom the appeal is taken and on due cause shown.
3. Record of Facts / Transmission of Record: Upon receipt of an application, the officer or body from whom the appeal is taken shall transmit to the ZBA all papers constituting the record upon which the action appealed from was taken. In hearing and deciding appeals under this Section, the ZBA's review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not consider new information which had not been presented to the administrative official or body from whom the appeal is taken.
4. Hearing: Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 2.11. See Sec. 2.7 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney.
5. Decision: The ZBA shall render a decision in the form of a motion or resolution containing a full record of the findings and determination of the ZBA, and basis for such determination. The concurring vote of a majority of the members of the ZBA shall be necessary to grant a variance.

## Section 16.6 Interpretations

**A. Authority:** The ZBA shall hear and decide upon requests to interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning, including the determination of the precise location of the boundary lines between zoning districts (see Article 3).

**B. Procedures:**

1. **Application Requirements:** A written application for an interpretation shall be completed and filed with the Zoning Administrator on forms established for that purpose. Application for an interpretation shall specify, at a minimum, the name, address, and phone number of the applicant; the standard, regulation or provision requiring an interpretation; and a plot plan, site plan, or similar drawing illustrating the application or relevance of such interpretation. A minimum of five (5) copies of the completed application shall be submitted along with any application fees.
2. **Hearing:** Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 2.11. See Sec. 2.7 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney.
3. **Decision:** The ZBA shall render a decision in the form of a motion or resolution containing a full record of the findings and determination of the ZBA, and basis for such determination. In deciding on an interpretation, the ZBA shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the language in question is contained, and all other relevant provisions in the Ordinance.
  - a. Prior to deciding a request for an interpretation, the ZBA may confer with Township staff and consultants to gain insight into the provision subject to interpretation and any consequences which may result from differing decisions. Such consultations, when in the presence of a quorum of the ZBA, shall comply with the Open Meetings Act.
  - b. A decision providing an interpretation may be accompanied by a recommendation to the Planning Commission for consideration of an amendment of the Ordinance.

## Section 16.7 Variances

**A. Authority:** The ZBA shall have the power to authorize variances from the requirements of this Ordinance.

**B. Standards for Non-Use Variances:** The ZBA shall have the power to authorize variances from specific site development requirements of this Ordinance, such as lot area, building setbacks, and height restrictions, provided that all of the standards below are met and the record of proceedings of the ZBA contains evidence supporting each conclusion.

1. There are practical difficulties that prevent carrying out the strict letter of this Ordinance due to unique circumstances, such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property in relation to such conditions, that do not generally apply to other property or uses in the same district, and shall not be recurrent in nature. These difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
2. The practical difficulty or special condition or circumstance does not result from actions of the applicant.
3. The variance will relate only to property described in the variance application.
4. The variance will be in harmony with the purpose of this Ordinance and the intent of the District, including the protection of public health, safety and welfare in general and vehicular and pedestrian circulation specifically.
5. The variance will not cause a substantial adverse effect upon surrounding property including property values and the development, use and enjoyment of property in the neighborhood or District.
6. The strict compliance with the site development requirement in question would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
7. The variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the practical difficulty.

**C. Standards for Use Variances:** The ZBA shall have the power to authorize variances from the use restrictions of a district of this Ordinance provided that all of the standards below are met and the record of proceedings of the ZBA contains evidence supporting each conclusion.

1. The property cannot generate any reasonable economic return if its use is restricted to the authorized uses of the district in which it is located, and the variance requested is not based merely on a desire to generate a greater economic return for the property.
2. There are exceptional or extraordinary circumstances or conditions specific to the property itself that are

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not generally applicable to the surrounding area or otherwise recurrent in nature, that place unreasonable restrictions on the use of the property as authorized by the district in which it is located. Exceptional or extraordinary circumstances or conditions may include, but need not be limited to, excessive narrowness or shallowness of the property, the extraordinary shape of the property, exceptional topographic conditions on the property, or the use, development, or character of adjoining property.

3. The use variance, if granted, will not alter the essential character of the neighborhood or surrounding area, or otherwise be detrimental to the public welfare or injurious to other properties in the neighborhood or surrounding area.
4. The variance is not necessitated by the actions of the applicant.
5. The variance requested is the minimum necessary to permit reasonable use of the land and buildings.

### D. Procedures

1. **Application Requirements:** Application for a variance shall specify, at a minimum, the name, address, and phone number of the applicant; the legal description for the lot subject to the variance; a specification of the Ordinance's standards for which a variance is sought and the specific variance being requested; and a plot plan, site plan, or similar drawing that adequately illustrates the proposed improvements to the lot for which the variance is requested. 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, including any information the applicant may choose to submit to demonstrate conformance with the standards of subsection (B) above. A minimum of five (5) copies of the completed application shall be submitted along with any application fees.
2. **Hearing:** Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 2.11. See Sec. 2.7 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney.
3. **Decision:** The ZBA shall render a decision in the form of a motion or resolution containing a full record of the findings and determination of the ZBA, and basis for such determination. The concurring vote of a majority of the members of the ZBA shall be necessary to grant a variance.
  - a. In granting any variance, the ZBA may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance. See Article 20 regarding conditional approvals.
  - b. A variance shall become null and void unless the construction authorized by such variance has been commenced within six (6) months after the granting of the variance; and the occupancy or use of the land, structure, and/or building for which the variance was granted has taken place within one (1) year after the granting of the variance. The ZBA may extend this time limit upon its finding that no substantial changes have occurred to ordinance regulations, abutting properties, or other conditions that undermine the basis for the original issuance of the variance.
  - c. No application for a variance which has been acted upon shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the original action, in the discretion of the ZBA.

### **Section 16.8 Review by Circuit Court**

**A. Circuit Court Review:** The decision of the ZBA shall be final. However, any party aggrieved by an order, determination or decision of the ZBA may obtain a review thereof both on the facts and the law, in the circuit court. The filing of an appeal to the circuit court shall be filed within 30 days after the ZBA certifies its decision in writing or approves the minutes of its decision. The circuit court shall review the record and decision of the ZBA to ensure that the decision:

1. Complies with the constitution and laws of the State.
2. Is based upon proper procedure.
3. Is supported by competent, material, and substantial evidence on the record.
4. Represents the reasonable exercise of discretion granted by law to the ZBA.

**End of Article 16**

## Article 17 AMENDMENTS

### Section 17.1 Purpose

This Article establishes procedures for the review and action on amendment requests. Requested amendments to this Ordinance shall be processed according to Public Act 110 of 2006, as amended, and in doing so, the procedures of this Article shall be followed. It is not intended that this Ordinance be amended except to correct an error, to address changed or changing conditions including in a particular area in the Township and in strategies to ensure the public health, safety and welfare, to conform with the Master Plan and/or other ordinances of the Township, and to meet a public need for new or additional land uses in appropriate locations.

### Section 17.2 Initiation of Amendments

Petitions for amendments may be initiated by the Township Board or Planning Commission, by its own motion, or by petition of one (1) or more owners of property to be affected by the proposed amendment. Only the Township Board may amend this Ordinance.

### Section 17.3 Procedures

**A. Application, Distribution and Data:** A petitioner shall submit twenty (20) copies of a completed application to the Zoning Administrator on a form established for that purpose, which shall include a detailed description of the proposed amendment including the name, address and phone number of the applicant and the desired change(s) and reason(s) for such change(s), along with any application fees. The Zoning Administrator shall record the date of their receipt and transmit copies to the Planning Commission, Township Board, and other agencies or individuals selected to review such plans including but not necessarily limited to Township departments and staff, consultants, and the Montcalm County Road Commission.

1. When the petition involves a change in the Zoning Map, an application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same amendment, and the applicant shall also submit the following information:
  - a. A legal description of the property, and a scaled map of the property correlated with the legal description and clearly showing the property's location.
  - b. The applicant's name, address and phone number and interest in the property, and if the applicant is not the owner, the name, address and phone number of the owner.
  - c. The desired change and reasons for such change.
  - d. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.

#### **B. Planning Commission Action**

1. Public Hearing: The Planning Commission shall review the application materials. Upon finding that the application materials are satisfactorily complete and the Planning Commission has a clear understanding of the requested amendment, the Planning Commission shall establish a date for at least one (1) public hearing on the application and hold such hearing. The Zoning Administrator shall give notice of the public hearing according to Section 2.11. Any application not properly filed or complete shall be returned to the applicant with a written notice of deficiencies.
2. Planning Commission Review / Recommendation: In reviewing any application for an amendment to this Ordinance, the Planning Commission shall identify and evaluate all factors relevant to the application.
  - a. If the petition involves an amendment to the official zoning map, matters to be considered by the Planning Commission shall include, but shall not be limited to, the following:
    - 1) What, if any, identifiable conditions related to the petition have changed which justify the proposed amendment?
    - 2) What is the impact of the amendment on the ability of the Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?
    - 3) Will the petitioned district change adversely affect the value of the surrounding property?
    - 4) Is the site's physical, geological, hydrological and other environmental features compatible with the host of uses permitted in the proposed district, and will development under the petitioned district change be likely to adversely affect environmental conditions?
    - 5) Can the subject parcel comply with all requirements of the proposed zoning classification?
    - 6) Is the subject property able to be put to a reasonable economic use in the zoning district in which it is presently located?

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- 7) Is the proposed rezoning consistent with the zoning classification of surrounding land?
  - 8) Does the petitioned district change generally comply with the Montcalm Township Master Plan?
  - 9) What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?
- b. If the petition involves an amendment to the text of the Ordinance, matters to be considered by the Planning Commission shall include, but shall not be limited to, the following:
- 1) Is the proposed amendment supported by documentation, such as from the Zoning Board of Appeals, that the proposed amendment would minimize problems or conflicts with specific sections of the Ordinance?
  - 2) Is the proposed amendment supported by reference materials, planning and zoning publications, information gained at seminars or experiences of other communities to more effectively deal with certain zoning issues?
  - 3) Is the proposed amendment supported by significant case law?
- c. In deliberating on the amendment petition, the Planning Commission may solicit information and testimony from consultants and officials of, but not limited to, the County Health Department, County Road Commission, Township Police and Fire Department, and any school district affected.
3. Planning Commission Recommendation: The Planning Commission shall transmit its findings of fact and a summary of comments received at the public hearing to the Township Board, along with its recommended action on the amendment request. The Planning Commission shall also transmit its recommendation to the County Planning Commission.

### C. Township Board Action

1. After receiving the findings and recommendations of the Planning Commission, and after receiving the findings and recommendations of the County Planning Commission, the Township Board at any regular meeting or at any special meeting called for that purpose, shall consider said findings and recommendations. The Township Board may refer any proposed amendment back to the Planning Commission for further consideration and comment within a time specified by the Township Board. The Township Board may adopt the amendment, with or without changes. Such action shall be by Ordinance, requiring a majority vote of the Township Board. The Township Board may hold additional public hearings if the Township Board considers it necessary. The Township Board shall grant a hearing on the proposed amendment to any property owner who has filed a written request to be heard. This written request shall take the form of a certified mail letter from the property owner to the Township Clerk. All hearings subject to this subsection shall comply with the notice requirements of Section 2.11.
  - a. If the recommendation of the County Planning Commission has not been received by the Township within thirty (30) days of the County Planning Commission's receipt of the Township Planning Commission's findings and recommendation, the Township shall conclusively presume that the County has waived its right for review and recommendation.

**D. Publication of Notice of Ordinance Amendments:** Following adoption of amendments by the Township Board, the amendments shall be filed with the Township Clerk and one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. Promptly following adoption of an amendment by the Township Board, a copy of the notice of adoption shall also be mailed to the airport manager of each airport that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice. The notices shall provide either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment, the effective date of the amended Ordinance, and the place and time where a copy of the ordinance may be purchased or inspected.

### Section 17.4 Resubmittal

No application for an amendment which has been denied by the Township Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions, found upon inspection by the Planning Commission to be valid.

### Section 17.5 Review of Zoning Ordinance

The Planning Commission shall, from time to time, review the Ordinance and the location of zoning district boundary lines and submit a report to the Township Board recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare.

### End of Article 17

**Article 18  
(RESERVED for FUTURE USE)**

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**End of Article 18**

**Article 19**  
**(RESERVED for FUTURE USE)**

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End of Article 19

**Article 20**  
**NONCONFORMING LOTS, USES and STRUCTURES**

**Section 20.1 Purpose**

It is recognized that there exists lots, structures and uses of land and structures within the districts established by this Ordinance and subsequent amendments, which were lawful before this Ordinance was passed or amended, which would be prohibited, regulated or restricted under the terms of this Ordinance or subsequent amendment. It is the purpose of this Article to permit legal nonconforming lots, structures and uses to continue until they are removed or discontinued, and to provide for their maintenance and repair but not their expansion, enlargement, extension or other alteration which in any way increases its nonconformity, except as otherwise provided by this Article.

**Section 20.2 Nonconforming Lots**

**A.** Notwithstanding limitations imposed by other provisions of this Ordinance, any use and customary accessory structures may be erected on any single lot of record in existence at or before the effective date of adoption or amendment of this Ordinance, where such use is an authorized use by right in said District according to Article 3, even though such lot fails to meet the requirements for area, width, and/or frontage that are generally applicable in the district. However, all yard dimensions, setbacks and other requirements not involving area, width, and/or frontage, shall conform to the regulations for the district in which such lot is located unless a variance is obtained through approval of the Zoning Board of Appeals.

1. If two or more lots or combinations of lots and portions of lots share one or more common boundaries and are in single ownership of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for area, width, and/or frontage, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance and no portion of said parcel shall be used or divided in a manner which diminishes compliance with the lot area, lot width and lot frontage requirements established by this Ordinance.

**Section 20.3 Nonconforming Uses**

**A.** Where, at the effective date of adoption or 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:

1. No nonconforming use shall be enlarged or increased in area or bulk, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance. However, a nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
2. No 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.
3. A change of tenancy or ownership of a nonconforming use is allowed provided there is no increase in the degree of nonconformance of the nonconforming use.
4. Irrespective of other requirements of this Article, if no structural alterations are made, any nonconforming use of a structure and lot may be changed to another nonconforming use of less nonconformance, provided that the Zoning Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is more appropriate to the District than the existing nonconforming use. In permitting such change, the Zoning Board of Appeals may require appropriate conditions and safeguards in accord with the purpose of this Article. Where a nonconforming use, structure, or use and structure in combination is hereafter changed to a less nonconforming character, it shall not thereafter be changed to a greater nonconforming character.
5. Any nonconforming use of land or structure, or combination thereof, which is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such use is located, and the nonconforming use may not thereafter be resumed.
6. If a nonconforming use of a parcel or lot ceases for any reason for a period of more than two (2) consecutive years, the subsequent use of such parcel or lot shall thereafter conform to the regulations and provisions of this Ordinance for the district in which such lot is located. This provisions shall not apply in the case of a dwelling in a Commercial District where such dwelling is a nonconforming use.

## Section 20.4 Nonconforming Structures

A. 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 or subsequent amendment by reason of restrictions on area, lot coverage, height, setbacks, yards or other characteristics of the structure or location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No nonconforming structure may be enlarged or altered in any way which increases its nonconformity.
2. Should a nonconforming structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement value, exclusive of foundations, it shall not be reconstructed except in conformity with the provisions of this Ordinance, including the respective site development standards for the district in which it is located. In identifying the extent of destruction and the cost to replace the damaged structure, the Zoning Administrator shall seek a written opinion from a qualified building appraiser and the opinion shall include the basis for the opinion.
  - a. The limitations of this subsection shall not apply in the case of the replacement of a nonconforming structure where the replacement structure is to be on the same foundation/footprint as the previous structure, the replacement structure is completed to an extent equal to fifty percent (50%) of its construction cost within eighteen (18) months of the previous structure's destruction, and the replacement structure is no more nonconforming than the previous destroyed structure.
3. Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
4. Where nonconforming status applies to a structure and use in combination, removal or destruction of the structure to an extent of more than fifty percent (50%) of its replacement value, exclusive of foundations, shall eliminate the nonconforming status of the land, and all subsequent uses and structures on the land shall conform to the applicable district regulations. This provisions shall not apply in the case of a dwelling in a Commercial District where such dwelling is a nonconforming use.

## Section 20.5 Repairs and Maintenance

A. **Nonconforming Structure:** Nothing in this Article shall be deemed to prohibit repairs, maintenance, and structural alterations to a nonconforming structure provided such repairs, maintenance, and alterations do not result in an increase in the structure's nonconformity.

B. **Unsafe Building:** Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by the Building Inspector.

## Section 20.6 District Changes

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of another classification, the provisions of this Article shall also apply to any existing lots, uses and structures that become nonconforming as a result of the boundary changes.

## Section 20.7 Illegal Nonconformities

Nonconforming lots, uses and structures existing at the effective date of this Ordinance or amendment thereto, that were established without approval of zoning compliance or without a valid building permit, or those nonconforming lots, uses and structures that cannot be proved conclusively as existing prior to the effective date of this Ordinance or amendment thereto, shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconformities by this Article.

*End of Article 20*

**Article 21**  
**SUPPLEMENTAL PROVISIONS**

**Section 21.1 Purpose**

The purpose of this Article is to recognize that there are certain conditions concerning land uses that warrant specific exceptions, regulations, or standards in addition to the regulations contained elsewhere in this Ordinance, and to establish such exceptions, regulations, and standards. The following supplemental provisions apply to all zoning districts unless otherwise indicated.

**Section 21.2 Conditional Approvals**

**A. Conditions on Discretionary Decisions:** The Planning Commission, Zoning Board of Appeals, and Township Board may attach conditions to the approval of a site plan, special land use, variance or other discretionary approval. Such conditions shall be based upon standards in this Ordinance and may be imposed to:

1. 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. Protect the natural environment and conserve natural resources and energy.
3. Insure compatibility with adjacent uses of land.
4. Promote the use of land in a socially and economically desirable manner.

**B. Requirements for Valid Conditions:** Conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

**C. Record of Conditions and Changes:** Any conditions imposed shall be recorded in the record of the approval action. These conditions shall not be changed except upon the mutual consent of the approving authority and the property owner.

**D. Performance Guarantees:** Performance guarantees may be required to ensure compliance with conditions on discretionary decisions pursuant to the requirements of Section 2.6.

**Section 21.3 One Single-Family Dwelling to a Lot**

No more than one (1) single family dwelling unit shall be established on a lot or parcel, unless specifically provided for elsewhere in this Ordinance.

**Section 21.4 Moving Buildings**

No existing building or structure within or outside of the Township shall be relocated upon any lot within the Township unless the building or structure meets all provisions of this Ordinance and the Michigan Construction Code.

**Section 21.5 Essential Services**

Essential services shall be permitted as authorized and regulated by law and other ordinances of the Township, it being the intention hereof to exempt such essential services from the application of this Ordinance. This exception shall not apply to administrative buildings, communication towers, public utility storage yards, and similar above-ground structures and uses associated with such essential services.

**Section 21.6 Earth Sheltered Homes**

The bottom edge of an earth berm abutting a wall or roof of a dwelling shall meet the setback requirements for the District in which it is located.

### Section 21.7 Permitted Setback Encroachments for Principal Buildings

- A. Architectural features part of a principal building other than an agricultural building, such as cornices, eaves, gutters, chimneys, pilasters and similar features, may project a maximum of two and one-half (2 1/2) feet into a required setback area.
- B. Balconies, fire escapes, and outside stairways of open construction, part of a principal building other than an agricultural building, may project a maximum of five (5) feet into a required setback area.

### Section 21.8 Configuration of Lots / Flag Lots

- A. All lots shall conform to the following configuration requirements:
  - 1. The depth of a lot shall not exceed 4 times its width.
  - 2. Lots shall conform with the minimum lot width and frontage standards of Table 3-4 except that such frontage and width standards may be reduced where the front lot line abuts a curvilinear segment of a road, including a cul-de-sac, where without such reduction, such lots would be unnecessarily excessive in lot width or lot area, or otherwise result in irregular or impractical configurations. However, such frontage reduction shall not exceed fifty percent (50%) nor result in frontage less than sixty-six (66) feet, and such lot shall comply with the minimum lot width requirement of Table 3-4 at the proposed building setback line and over at least seventy percent (70%) of the lot area.
  - 3. Where there is no other way to gain access to undeveloped land due to limited street frontage, flag lots may be created provided that the flag lot has at least twenty (20) feet of frontage on a public road, that the access way from the public road serves only one lot, and that there is at least a distance equivalent to the lot width of a conforming lot between any two flag lots. Two (2) flag lots may be adjacent to each other only where the two (2) lots are served by the same shared driveway. The minimum front, side and rear yard requirements of the District in which a flag lot is located must be met on the portion of the lot excluding the access way. (See Figure 22-3).

### Section 21.9 Single Family Dwelling Standards

- A. All single family detached dwellings shall comply with the following standards, provided that the following standards shall not apply to mobile homes located in a licensed mobile home park except to the extent required by state or federal law.
  - 1. Except for dwellings in the A-1 District, single family dwellings of one story shall have a minimum ground floor area of not less than 800 square feet and single family dwellings of multiple stories shall have a minimum ground floor area of not less than 600 square feet. Single family dwellings of one story in the A-1 District shall have a minimum ground floor area of not less than 900 square feet and single family dwellings of multiple stories shall have a minimum ground floor area of not less than 800 square feet. Square footage measurements shall be exclusive of any attached garage, open porches or other attached structures.
  - 2. A single family dwelling shall comply in all respects with the Michigan Construction Code. Where a dwelling is required by law to comply with federal or state standards or regulations for construction (as in the case of mobile homes) 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.
  - 3. A single family dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the building code. 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, and shall be set on a concrete footing with a masonry wall extending from perimeter to ground, or on a concrete footing with fireproof supports and shall have a continuous skirt extending from perimeter to ground, made of commercial quality or equivalent, and comply with the rules and regulations of the Michigan Mobile Home Commission, the Public Health Department, and HUD Regulations 24 CFR 3210, being the "Mobile Home Construction and Safety Standards". In the event that a dwelling is a mobile home as defined herein, such mobile home shall be installed with the wheels removed. No dwelling shall have any exposed towing mechanism, undercarriage or chassis.
  - 4. A single family dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the Mid-Michigan Health Department.
  - 5. A mobile home shall meet the Manufactured Home Construction and Safety Standards Act of 1974 (as amended) or be certified by HUD to be approved for occupancy and to be placed on a new site. For mobile homes built prior to June 15, 1976, a label certifying compliance to the Standards for Mobile Homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture, is required, as identified in the

## Montcalm Township Zoning Ordinance

Michigan Residential Code, Appendix E definitions.

### Section 21.10 Accessory Uses, Buildings, and Structures

#### A. Scope of Regulations

1. Accessory buildings, structures and uses, except in association with a farm operation or as otherwise permitted in this Ordinance, shall be subject to the regulations of this Section.
2. No provisions of this Section shall be interpreted as authorizing accessory uses, buildings or structures that do not conform to the definitions of Article 22 pertaining to “accessory building” and “accessory use.”
3. For the purposes of this Section, a building shall be considered an accessory building where such building is not structurally attached to the principal building by either shared wall construction or by a fully and structurally enclosed corridor.

**B. Permit Required/Review:** No accessory building or structure shall be erected prior to the issuance of a Zoning Permit for such structure or building, except that no permit is required in the case of residential fences for single-family and two-family dwellings. Applications for accessory buildings and structures shall be administered and reviewed as part of the original or proposed/revised plot plan or site plan for the principal use of the lot.

#### C. Placement/Setbacks

1. In no case shall an accessory building or structure be located so as to interfere with the proper functioning of utilities, including existing and proposed back-up septic drain fields.
2. Accessory buildings and structures shall comply with the District setbacks applicable to the principal building on the lot.

#### D. Height

1. Accessory buildings and structures on residential lots in the R-1, R-2, R-3 and R-4 Districts shall not exceed sixteen (16) feet in wall height.
2. Accessory buildings and structures not otherwise regulated by subsection (B)(1) above shall not exceed the permitted maximum height of the principal building on said lot.

#### E. Number, Size and Lot Coverage

1. No accessory building or structure shall be erected that results in noncompliance with the lot coverage standards of Table 3-4 of Section 3.6.

**F. Habitation of Accessory Structures:** No accessory building or structure shall be used or occupied as a dwelling except as may be authorized pursuant to Section 21.3 (Temporary Dwellings).

**G. Prior to a Principal Structure:** Accessory buildings and structures shall not be erected on a lot or parcel prior to the establishment of a principal building. However, in the case where two lots are under same ownership but opposite one another and separated by a road, an accessory building or structure shall not be located across the road from the lot occupied by the dwelling except upon approval by the Township Board upon a finding that the proposed alterations to such lot will not undermine the character and welfare of nearby properties and uses.

### Section 21.11 Unsafe Buildings and Structural Damage

Nothing within this Ordinance shall be construed to prevent compliance with an order by the appropriate authority to correct, improve, strengthen, or restore to a safe or healthy condition, any part of a building or premises declared unsafe or unhealthy.

### Section 21.12 Screening of Trash Receptacles

Uses requiring the outdoor storage of trash in a trash dumpster or similar large trash receptacle shall screen such receptacle with an opaque fence or wall at least as high as the receptacle. Such fence or wall shall be constructed of material that is compatible with the architectural materials used in the site's development. Gates that provide access to the container for maintenance shall be made of an opaque material that is also compatible with the site's architectural materials. This Section 21.12 shall apply only to commercial uses, industrial uses, institutional and public uses, and multiple family developments.



### Section 21.13 Temporary Dwellings

**A. Authorization/Application:** Temporary dwellings are prohibited except as authorized by this Section. Such temporary dwellings shall be subject to approval by the Zoning Administrator. Application for and authorization of temporary dwellings under this Section shall follow all provisions of Section 2.4(B) for plot plan approval, and such plot plan shall clearly identify the proposed location of the permanent and temporary dwelling.

**B. Basis for Temporary Dwelling:** No temporary dwelling application shall be approved except for the following purposes:

1. Emergency Housing: To allow a recreational vehicle to be placed on the lot while the permanent dwelling on the same lot is under repair for which a Zoning Permit and building permit has been issued, where such repair is due to destruction by fire, collapse, explosion, Acts of God, or acts of a public enemy, to the extent that it is no longer safe for human occupancy.
2. New Home Under Construction: To allow a recreational vehicle to be placed on the lot while the permanent dwelling on the same lot is under construction and for which a Zoning Permit and building permit has been issued.
3. Garage Home for Emergency Housing or New Home Under Construction: As an alternative to the use of a recreational vehicle under subsection (B)(1) and (2) above, a temporary dwelling may include a garage fitted with cooking, sleeping, and plumbing facilities.

**C. Standards:** Temporary dwellings authorized by this Section shall be served by potable water and sewage disposal facilities in compliance with County Health Department rules and regulations and, in the case of a recreational vehicle, shall not be located closer than twenty-five (25) feet to a lot line.

**D. Permit Duration and Removal:** No permit issued under this Section shall be issued for a duration exceeding twelve (12) months. In the case of a recreational vehicle, the vehicle shall be removed from the lot no later than the termination date of the permit. In the case of a garage serving as the temporary dwelling, all cooking, sleeping, and plumbing facilities shall be removed no later than the termination date of the permit.

### Section 21.14 Recreational Vehicles

**A. Storage:** The storage of recreational vehicles on the same lot as a dwelling is prohibited except under the following conditions:

1. Such vehicles shall be licensed to a resident of the lot and shall be in operable condition.
2. No more than one such vehicle may be stored on a parcel of twenty thousand square feet or less. One additional vehicle may be stored on the same parcel for each additional whole one (1) acre comprising the parcel, but in no case shall more than a total of three vehicles be stored at any single time.
3. The storage of recreational vehicles shall comply with all required setbacks for the dwelling, and no more than one such vehicle may be stored in a front yard at any single time.

**B. Occupancy:** Recreational vehicles may be temporarily occupied only as an accessory use to a lawful dwelling located on the same lot, and only to provide temporary shelter for visitors of the residents residing on such lot, and provided such occupancy shall not exceed thirty (30) days in any twelve (12) month period and bathroom facilities in the dwelling shall be made available to occupants of the recreational vehicle. The dumping of waste is prohibited.

### Section 21.15 Temporary Buildings and Uses (other than temporary dwellings)

**A. Authorization:** Temporary non-residential uses and buildings are prohibited except as authorized by this Section. Such temporary buildings and uses may include, but shall not be limited to, field offices, tool sheds, and storage areas associated with new construction projects when located on the construction site; temporary buildings associated with school and religious facilities; temporary real estate offices part of a multi-unit residential development including the use of a model home for office purposes; Christmas tree sales lots; and outdoor circuses, carnivals, theatrical exhibitions, and musical festivals.

**B. Application:** An applicant shall submit a completed application for a temporary non-residential building or use to the Zoning Administrator on a form established for that purpose. The application shall include a detailed description of the proposed temporary building and use, and a plot plan. The plot plan shall identify the proposed location of all temporary buildings and uses, their locational relationship to existing and proposed permanent buildings and uses and required principal building setbacks, and measures to be employed to ensure the public health, safety and welfare including potable water, sewage disposal, and traffic circulation.

**C. Review and Action:** The Zoning Administrator shall be responsible for the review and approval of temporary non-residential buildings and uses. The Zoning Administrator shall refer the application to the Planning Commission for action in the case where, in the reasonable judgment of the Zoning Administrator, the

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application presents complexities or public health, safety and welfare issues that can most adequately be reviewed and acted upon by the Planning Commission. The Planning Commission may require the submittal of a site plan prepared according to Article 14 to adequately evaluate the merits of the request.

1. In the case where the application is for an outdoor use, the Zoning Administrator shall notify adjacent property owners of such application. The notice shall identify the property subject to the application, describe the nature of the proposed temporary use, and where written comments can be received concerning the application. Notice shall be given a minimum of fifteen (15) days prior to the date when the application may be acted upon.

**D. Approval Standards:** No temporary building or use application shall be approved, or be permitted to continue, which does not comply with the site plan approval standards of Article 14, except where the approving body finds that specific standards need not apply due to the temporary nature of the use and provided the approving body determines the waiving of such standards shall not undermine the public health, safety and welfare.

**E. Permit Duration and Removal:** No permit issued under this Section shall be authorized for a period exceeding thirty (30) days in any twelve (12) month period except in the case where the establishment of a permanent building or use, for which the temporary building or use is required, will exceed thirty (30) days. However, in no case shall such authorization exceed a twelve (12) month period. The temporary condition shall be removed from the lot no later than the termination date of the permit.

### Section 21.16 Limitations on Vehicles in Residential Districts and Subdivisions

**A.** No commercial vehicle with a rated carrying capacity in excess of two (2) tons shall be stored overnight on a lot in an R-2, R-3, or R-MF District, or in a site condominium or platted subdivision irrespective of the District. "Commercial vehicle" shall be defined as a vehicle primarily designed or used to transport goods, materials, equipment, tools, or other items.

**B.** No earth moving vehicles, sand and gravel hauling trucks, semi-tractors or trailers, buses or similar large commercial or industrial vehicles shall be parked overnight or otherwise stored on a lot in a Residential District or in a site condominium or platted subdivision irrespective of the District. This provision shall not prohibit the parking or storing of buses for school or church use on parcels upon which the school or church is located, or the parking of construction equipment or vehicles on a parcel on which the equipment or vehicles are required for the completion of construction activities.

### Section 21.17 Height Requirement Exceptions

**A.** The following are exempted from the height limitations contained elsewhere in this Ordinance provided that no portion of the building or structure may be used for human occupancy and the exemption shall not undermine the character, use and enjoyment of nearby properties:

1. Those features that are purely ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles and monuments, and similar features, provided such features do not exceed more than twenty percent (20%) of the structure's gross roof area and all setbacks for said building are increased by one-half (1/2) foot for each foot such building and features exceed the District's maximum height requirement.
2. Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, elevator and stairwell structures, ventilators, bulkheads, masts and aerials, television antennas, fire and hose towers, wire transmission structures, cooling towers, or other structures where the manufacturing process requires a greater height, provided all setbacks for said building are increased to equal the building height as measured to the top of such appurtenances.

### Section 21.18 Garage Sales

**A.** Garage sales, rummage sales, yard sales, moving sales, and similar activities in association with residential lot are prohibited except in compliance with the following conditions:

1. No goods shall be offered for sale that were purchased, consigned or accumulated for the purpose of resale.
2. No single garage sale, rummage sale or similar activity shall exceed four (4) days in duration.
3. No more than four (4) garage sales, rummage sales or similar activity be held on a lot within any calendar year.
4. No garage sale or similar activity shall be conducted before 8:00 a.m. or continue later than 9:00 p.m.

### Section 21.19 Fences and Walls

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**A. Residential Lots:** Fences and walls on lots used principally for residential purposes shall comply with the following standards:

1. No fence or wall exceeding three (3) feet in height shall be erected in a front yard except for a protective wire fence, in which case such fence may not exceed six (6) feet in height and shall have at least ninety-five percent (95%) of its surface area open when viewed from the perpendicular.
2. No fence or wall exceeding six (6) feet in height shall be erected in a side or rear yard.
3. No fence or wall with barbs, spikes, nails, or other sharp or electrified devices shall be permitted except for the purpose of confining animals.
4. Fences and walls shall not be subject to any setback requirements.
5. The finished side of a fence shall face the opposite lot, the finished side being the face that exhibits the least structural components.

**B. Agricultural Fences:** Fences and walls on lots used for the confinement of animals in association with an agricultural operation or the confinement of wild game such as deer, shall comply with the following standards:

1. A fence in excess of six (6) feet in height shall have at least ninety-five percent (95%) of its surface area, which exceeds such height, be open when viewed from the perpendicular.
2. Fences and walls shall not be subject to any setback requirements.

**C. Commercial, Industrial, Public, and Institutional Lots:** The location, height and character of all fences and walls proposed as part of the commercial, industrial, public and/or institutional use of a lot, or any other use of a lot requiring site plan approval pursuant to Article 14, shall be reviewed according to the site plan approval standards of Section 14.4.

### Section 21.20 Outdoor Residential Swimming Pools

**A. Permit/Application:** No outdoor swimming pool on a residentially-used lot shall be erected prior to the issuance of a Zoning Permit from the Zoning Administrator, and the necessary building permits from the Building Inspector. Application for a land use permit shall be made to the Zoning Administrator on a form for such purpose, and shall be accompanied by a plot plan (Article 4) that identifies the location of the pool, adjacent buildings, fencing, and gates. This Section 21.20 shall not apply in the case of a swimming pool that is designed for above-ground use and is less than four (4) feet in height.

#### **B. Location and Setbacks**

1. No pool or pool fencing shall be located in a front yard.
2. No pool shall be located under a service drop conductor or other utility wires.
3. Pools shall be set back a minimum distance of fifteen (15) feet from all side and rear lot lines.
4. There shall be not less than four (4) feet between the wall of the pool and any building.

**C. Fencing:** All swimming pools shall be completely enclosed by wood, chain link, 2" by 4" welded wire, masonry fence or any other solid fence, of not less than four (4) feet in height nor more than six (6) feet in height, and located not less than four (4) feet from the outside perimeter of any pool wall. Such fencing may be omitted where building walls abut the pool area, provided that the entire remaining perimeter of the pool area is fenced. All openings in any such fence shall be equipped with a self-closing, self-latching gate.

1. Where all parts of all sides of an above-ground pool exceed four (4) feet above grade, a fence shall not be required if a ladder or stairs, which lifts or retracts either manually or automatically and is in good operating condition, is attached to the pool.

**D. Building and Health Codes:** All swimming pools shall be designed, constructed and maintained in compliance with all building codes and the rules and regulations of county and state agencies.

### Section 21.21 Outdoor Display, Sales and Storage

**A. Commercial Display and Sales:** Outdoor display or sales of merchandise is prohibited except where expressly authorized pursuant to an approved site plan, and such display or sales area shall not extend into the District's required setback for the principal building.

**B. Commercial and Industrial Storage:** Excepting the display and sales of merchandise as regulated by subsection (A) above and unless specifically noted elsewhere in this Ordinance, all storage of materials or products in association with a commercial or industrial use including lumber piles, crates, boxes, building materials, discarded materials, and junk shall be completely enclosed or otherwise screened by an opaque fence or wall of not less than six (6) feet in height. The screened area shall not extend into the District's required setback for the principal building. Such enclosure or screen shall be subject to site plan approval.

### Section 21.22 Keeping of Animals as Accessory Residential Use

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**A. Definitions:** For the purpose of this Section, the following phrases shall have the following definitions:

1. "Vicious animal" shall be defined as any animal that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or which because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals.
2. "Large livestock" shall be defined as horses, ponies, cattle, and other livestock that can be reasonably expected to grow to a similar or larger size upon reaching maturity.
3. "Medium livestock" shall be defined as sheep, goats, ostrich, swine, and other livestock that can be reasonably expected to grow to an approximately similar size upon reaching maturity.
4. "Small livestock" shall be defined as rabbits, chickens, fowl, mink, sable, fox, and other livestock that can be reasonably expected to grow to an approximately similar size upon reaching maturity.

**B. Keeping of Vicious Animals:** No vicious animal shall be kept permanently or temporarily in any District.

**C. Keeping of Household Pets:** The keeping of household pets, including dogs cats, fish, birds, hamsters and other animals generally regarded as household pets is permitted as an accessory use in association with any residentially-used lot provided such activities do not constitute a kennel as defined in this Ordinance, unless approval for such kennel has been granted pursuant to this Ordinance.

**D. Keeping of Livestock:** The keeping of livestock as an accessory use to the principal residential use of a lot shall be permitted in all Districts provided the parcel on which such livestock is maintained is a minimum of two and one-half acres in area and such animals do not exceed the following densities. This subsection (D) shall apply only to the keeping livestock as accessory to the principal residential use of a parcel, including private stables, and shall not apply to a farm.

1. Small Livestock: At no time shall the density of such livestock exceed one (1) animal per one-tenth (1/10) acre comprising such parcel, but in no case shall more than twenty-four (24) chickens or other fowl be located on the parcel.
2. Medium Livestock: The keeping of medium livestock shall occur only on parcels of two and one-half acres or greater. At no time shall the density of such livestock exceed one (1) animal per one-half acre comprising the parcel.
3. Large Livestock: The keeping of large livestock shall occur only on parcels of two and one-half acres or greater. At no time shall the density of such livestock exceed one (1) animal per three-quarters (3/4) acre comprising the parcel.
4. Regulations Applicable to All Livestock:
  - a. Livestock shall be managed by the occupants of the premises, and shall be maintained in a healthy condition.
  - b. Newly born horses, cows, donkeys, mules and other animals that exceed forty pounds (40 lbs.) in weight at birth may be maintained on said parcel for up to one (1) year provided the maintenance of such animals on the premises does not increase the permitted number of animals beyond the limitations of subsection (3) above by more than fifty percent (50%). Newly born animals that do not exceed forty pounds (40 lbs.) in weight at birth may be maintained on said parcel for no more than one-hundred twenty (120) days where such maintenance would increase the permitted number of animals beyond the limitations of subsection (1) or (2), as applicable.

### Section 21.23 Site Condominiums

**A. Intent:** The intent of this Section is to provide regulatory standards for condominium subdivisions similar to those required for projects developed under other forms of ownership. This section is not intended to prohibit or treat proposed or existing condominium projects different than projects developed under another form of ownership.

**B. Applicability of District Regulations:** A condominium unit, including single family detached units, shall comply with all applicable site development standards of the district within which it is located, including use, setback, height, coverage and area requirements, and all other provisions of this Ordinance. A condominium unit in a condominium subdivision is that portion of the project intended to function generally similar to a platted subdivision lot and shall comply with the minimum lot area, width and yard setbacks of the District within which it is located.

**C. Review and Approval Procedures:**

1. **Zoning Permit Required:** No grading or any other form of construction shall be initiated for a condominium subdivision prior to the approval of a final site plan and issuance of a land use permit. The future erection of any dwelling or other structure or building in the site condominium, not expressly approved as part of and illustrated on the final site plan, shall require an additional land use permit prior to erection.
2. **Site Plan Approval Required:** The issuance of a land use permit shall require the submittal and approval of a preliminary and final site plan pursuant to Article 4, Plot Plan and Site Plan Review, and master deed and bylaw documents. The Planning Commission shall be the approving body.
  - a. In addition to the preliminary and final site plan information required by Article 4, the applicant shall also submit information constituting a condominium subdivision plan, including the size, location, area, width, 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 Michigan Public Act 59 of 1978, as amended.
3. **Master Deed/Bylaws Approval Required:** The applicant shall furnish the Planning Commission with fifteen (15) copies of the proposed master deed and bylaws. These shall be reviewed for compliance with Township ordinances and to ensure that an assessment mechanism has been included to guarantee adequate funding for maintenance of all common elements. The common area funding responsibility of the association shall include any necessary drainage-ways and the cost to periodically clean out such drainage ways to keep them functioning as intended in the approved plans. The master deed shall clearly state the responsibility of the owner and co-owners and shall state that all amendments to the master deed must conform to Township, County, and state laws and regulations. The Master Deed shall also include any variances granted by Township, County, or State authorities and include a hold harmless clause from these variances. All provisions of the condominium subdivision plan which are approved by the Township Board shall be incorporated, as approved, in the master deed for the condominium subdivision.
4. **Issuance of Zoning Permit:** Upon approval of the final site plan, by-laws and master deed, the applicant shall furnish the Planning Commission a copy of the final bylaws and master deed, and a copy of the approved site plan on a mylar sheet of at least twenty-four inches by thirty-six inches (24" x 36"). Upon the satisfactory submittal of these documents, the Planning Commission shall direct the Zoning Administrator to issue a land use permit.
5. **Changes:** Any changes to an approved site condominium including changes in the by-laws, master deed, or site plan, including changes in lot line or road configuration and the addition or relocation of buildings, shall require approval by the Planning Commission prior to such change.

**D. Building Permit:** No building shall be erected prior to the issuance of a land use permit by the Zoning Administrator, and a building permit by the Building Inspector.

**E. Utilities:** The condominium subdivision shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and storm water runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.

**F. Roads:** All roads within a condominium subdivision shall be designed and constructed in conformance with the standards of the Montcalm County Road Commission.

**G. As-Built Plan and Occupancy:** Submission of as-built plans of a condominium subdivision is required. The Planning Commission may allow occupancy of the project before all required improvements are installed provided that a financial performance guarantee is provided pursuant to Section 3.06.

**H. Monuments:** All condominium units which are building sites shall be marked with monuments as if such units were lots within a platted subdivision, and such monuments shall comply with the requirements of the P.A. 591 of 1996, the Land Division Act, as amended.

## Section 21.24 Home Occupations

**A. Authorization and Standards:** The operating or conducting of a home occupation, as defined in Article 22, is permitted as an accessory use to the principal residential use of a lot and according to the regulations and standards of this Section. The regulation of home occupations as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance, but such flexibility is not intended to allow the essential residential character of residential neighborhoods and districts, in terms of use, enjoyment, and appearance, to be undermined by the occurrence of non-residential activities. Home occupations shall comply with the following conditions:

1. The home occupation shall be conducted entirely within the dwelling or fully enclosed accessory building.
2. The presence of the home occupation shall be clearly incidental and subordinate to the residential use of the lot.
3. The home occupation shall not employ more than one (1) person not residing in the home.
4. No article shall be sold or offered for sale on the premises except such as is produced by the home occupation, or is provided as an incidental activity associated with the principal service offered by the home occupation, including craft supplies in association with instructional classes on the same.
5. There shall be no change in the exterior appearance of the dwelling, or other visible evidence of the conduct of such home occupation other than a permitted sign according to Article 9.
6. All activities shall be carried on indoors. No outdoor storage or display shall be permitted.
7. The volume of traffic, noise, and parked vehicles generated by such home occupation shall be no greater than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street.
8. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. No equipment or process shall be used which creates visual or audible interference in any radio, television or communication receivers off the premises, or causes fluctuations in line voltage off the premises.
9. The home occupation shall not entail the use or storage of explosive, flammable, or otherwise hazardous waste in quantities in excess of those maintained in a typical household.

## Section 21.25 Outdoor Furnaces

**A. Outdoor Furnace Defined:** For the purpose of this Section and Ordinance, “outdoor furnace” shall be defined as an accessory structure or appliance intended not to be located within a building occupied by humans or domestic animals, which is designed for heating spaces or liquids within such occupied buildings through the burning of fuel.

**B. Approval Procedure:** Outdoor furnaces are classified as an accessory structure and shall be subject to Zoning Administrator approval according to Section 2.4. The Zoning Administrator shall issue a zoning permit for such furnace upon finding that the application complies with the standards and regulations of this Section and Ordinance.

**C. Standards:** An outdoor furnace shall be installed and used only in accordance with the following provisions:

1. Construction: An outdoor furnace shall comply with all building codes of the Township and all other regulations and requirements of county, state and federal agencies. An outdoor furnace shall meet the manufacture’s specifications for erection and operation and shall exceed such specifications where local codes, state or federal regulations require so.
2. Yards and Setbacks: No furnace shall be located in a front yard. The furnace shall be located a minimum of fifty (50) feet from an existing building on a separate lot and no less than twenty-five (25) feet from a lot line.
3. Chimney Height: The furnace shall have a chimney that extends at least fifteen (15) feet above the ground surface.
4. Fuel: No furnace shall rely on any fuel except natural wood, wood pellets, corn, and agricultural seeds, provided such materials include no additives such as paints, varnishes, preservatives, resins, and glues. For clarification purposes, prohibited fuels include, but are not limited to, rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes; asphalt and products containing asphalt; plywood or composite wood; any plastic material including but not limited to nylon, PVC, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers; rubber including tires and synthetic rubber-like products; and newspaper, corrugated cardboard, container board, office paper and other similar materials.

*End of Article 21*

## Article 22 DEFINITIONS

### **Section 22.01 Construction of Language**

For the purpose of this Ordinance, certain rules of construction apply to the text as follows:

- A.** Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- B.** The word "person" includes a corporation, association, partnership, trust, firm, or similar activity as well as an individual.
- C.** The word "building" includes the word "structure" and both include any part thereof.
- D.** The word "lot" includes the word "plot", "tract", or "parcel".
- E.** The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- F.** The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended to be used or occupied," "arranged to be used or occupied," "maintained to be used or occupied," or "designed to be used or occupied."
- G.** The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, and schedules, as included or attached as enacted or subsequently amended.
- H.** Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "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 the connected items, conditions, provisions or events may apply singly or in any combination.
  - 3. "Either/or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.
- I.** The "Township" is the Township of Montcalm in the County of Montcalm, State of Michigan. The "Township Board", "Zoning Board of Appeals" and "Planning Commission" are, respectively, the Board of Trustees, Zoning Board of Appeals, and Planning Commission of the Township.
- J.** Any word or term not interpreted or defined by this Ordinance shall be used with a meaning of common or standard utilization. A dictionary may be consulted.
- K.** Where a specific agency, department, law, or rule is referred to in this Ordinance, such reference shall include any successor agency, department, law or rule.

### **Section 22.02 Definitions**

**Abutting (lot or parcel):** A lot or parcel which shares a common border with the subject lot or parcel.

**Accessory Building or Structure:** A building or structure customarily incidental and subordinate to the principal structure and located on the same lot as the principal building.

**Accessory Use:** A use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

**Adult Foster Care Facility:** An establishment licensed under Public Act 218 of 1979, as amended, that provides to adults, for compensation, supervision, personal care, and protection in addition to room and board, for 24 hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks, including facilities for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. A foster care facility does not include a home for the aged licensed under Article 17 of Public Act 368 of 1978, as amended, nor a nursing home licensed under Public Act 139 of 1956, as amended.

a. **Family Home:** An adult foster care facility consisting of a private residence with the approved capacity to receive six (6) or fewer adults, the licensee for which shall be a member of the household and an occupant of the residence.

b. **Group Home:** An adult foster care facility with the approved capacity to receive seven (7) but no more than twenty (20) adults.



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- Agricultural Service Establishments:** Establishments which engage in performing agricultural, animal husbandry or horticultural services on a fee or contractual basis, including but not limited to centralized bulk collection, refinement, storage and distribution of farm products to wholesale and retail markets (such as grain cleaning and shelling; sorting, grading, and packing of fruits and vegetables for the grower; and agricultural produce milling and processing); the storage and sale of seed, feed, fertilizer and other products essential to agricultural production; hay baling and threshing; crop dusting; fruit picking; harvesting and tilling; veterinary services; and facilities used in the research and testing of farm products and techniques.
- Agriculture:** The act or business of cultivating land or using land, including associated buildings and machinery, for the commercial production of farm products including but not limited to pasturage, floriculture, dairying, horticulture, forestry, and livestock or poultry husbandry, but not including intensive livestock operations as defined in this Ordinance.
- Alteration:** Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams or girders; or any change which may be referred to herein as altered or reconstructed.
- Arcade:** Any business where more than fifty percent (50%) of the floor area is devoted to the use of machines which may be operated or used as a game, contest or for amusement of any description, not including devices used solely for playing music or establishments otherwise defined as adult entertainment businesses.
- Basement:** That portion of a building that is partly or wholly below the surrounding average ground elevation, to the extent that more than one-half (1/2) of its height, from the floor to the ceiling above, is below such average elevation. The surrounding average ground elevation shall be determined by averaging the highest ground elevation along each principal side of the building. A basement shall not be considered a story.
- Bed and Breakfast:** A structure which was constructed for single family residential purposes but which may be used for the purpose of renting bedrooms on a nightly basis to tourists, including the provision of bathing and lavatory facilities and a breakfast meal for overnight guests only, and occupied by the owners.
- Berm:** A mound of earth graded and shaped in such a fashion as to be used for visual and/or audible screening purposes.
- Building:** Any structure, either temporary or permanent, having a roof supported by columns, walls, or any other supports, which is used for the purpose of housing, sheltering, storing, or enclosing persons, animals, or personal property, or carrying on business activities. This definition includes but is not limited to: mobile homes, tents, sheds, garages, greenhouses, and other principal or accessory structures.
- Building Height:** The vertical distance measured from the finished grade where the building abuts the front yard to the highest point of the roof surface, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs. In the case of a lakefront lot, the building height shall be measured from the finished grade where the building abuts the rear yard (see *Figure 22-2 at end of this Article*).
- Building Inspector:** An individual hired by the Township to administer the Michigan Construction Code.
- Campground:** A parcel on which sites are offered for the use by the public, either free of charge or for a fee, for the establishment of temporary living quarters. Temporary living quarters means a tent, recreational vehicle, or any portable temporary housing designed to be carried or towed by a vehicle and placed for temporary living quarters.
- Cemetery:** Property, including crematories, mausoleums, and/or columbariums, used or intended to be used solely for the perpetual interment of deceased human beings or customary household pets.
- Certificate of Occupancy:** A document signed by the Building Inspector as a condition precedent to the commencement of a use or the occupation of a structure or building which acknowledges that such use, structure or building complies with the provisions of this Ordinance and the Michigan Construction Code.
- Church:** A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.
- Club:** An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit nor open to the general public.
- Commercial Wind Energy Conversion Facility (Commercial WECF):** An electricity generating facility consisting of one or more wind turbines under common ownership or operation control, and may include substations, cables, wires and other structures and buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers. A commercial WECF may be a principal or accessory use of the parcel on which it is located.

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- Communication Tower:** A relay structure, including both antenna and structural supports, attached directly to the ground or to another structure, used for the transmission or reception of radio, television, telephone, microwave, or any other form of telecommunications signals. Not included within this definition are: citizen band radio facilities; radio and television citizen band radio facilities; short wave receiving facilities; federally licensed amateur (ham) radio facilities; satellite dishes; and governmental facilities which are subject to state or federal law or regulations that preempt municipal regulatory authority.
- Condominium:** A plan or project consisting of two (2) or more condominium units established and approved in conformance with the Condominium Act (Public Act 59 of 1978, as amended).
- Condominium Master Deed:** The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project.
- Condominium, Site:** A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision, wherein in the condominium units function largely as lots within a platted subdivision.
- Condominium Subdivision Plan:** The drawings attached to the master deed for a condominium subdivision which describe the size, location, area, boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.
- Condominium Unit:** That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. A condominium unit may consist of either vacant land as in the case of a site condominium, or space which either encloses or is enclosed by a building. A condominium unit in a site condominium shall be equivalent to the term "lot" for the purposes of determining compliance of the site condominium with the provisions of this ordinance pertaining to minimum lot size, minimum lot width, setbacks, maximum lot coverage, and similar standards pertaining to lots.
- Convalescent Home:** A facility that houses older persons who receive a wide range of health and support services including the provision of meals and nursing care for a fee (also referred to as a nursing home).
- Day Care Center:** A facility, other than a private residence, receiving 1 or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Day care center includes a facility which provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Day care center does not include a Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization or a facility operated by a religious organization where children are cared for comparatively short periods of time while persons responsible for the children are attending religious services.
- Day Care, Family Home:** A private home in which the operator permanently resides as a member of the household in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.
- Day Care, Group Home:** A private home in which the operator permanently resides as a member of the household in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to more than six unrelated minor children for more than 4 weeks during a calendar year.
- District:** An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations. A "district" is also known as a "zone" or "zoning district".
- Drive-In / Drive-Through Establishment:** A business establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

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**Driveway:** A means of access for vehicles from a street or approved alley across a lot or parcel to a parking or loading area, garage, dwelling or other structure or area on the same lot, that is located and constructed in accordance with the requirements of this Ordinance and any requirements of the Montcalm County Road Commission or State of Michigan.

**Driveway, Shared:** A driveway described by a recorded easement providing access to more than one (1) lot, and complies with the provisions of this Ordinance.

**Dwelling, Multiple Family:** A building containing three (3) or more dwelling units designed for residential use for three or more families living independently of each other.

**Dwelling, Single Family:** A detached building or portion thereof designed and used exclusively by one family for living, cooking and sleeping purposes.

**Dwelling, Two Family (Duplex):** A building containing not more than two separate dwelling units.

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

**Erected:** The word "erected" means built, constructed, reconstructed, moved upon, or any physical activity upon a premises or lot required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection when done in conjunction with a structure.

**Essential Services:** The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, collections, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare, but not including towers, or office buildings, substations, or structures which are enclosures or shelters for service equipment, or maintenance depots. Communication towers shall not be interpreted as essential services.

**Excavation:** Any breaking of ground, except common household gardening, farming and ground care.

**Extractive Operation:** The removal of any earthen material, including top soil, sand, gravel, stone or any other earthen material for the purpose of disposition on another parcel. Excavation in excess of five hundred (500) cubic yards incidental to the construction of a building when the excavated material is to be deposited away from the premises is also an extractive operation. Mining, moving, crushing, sorting, washing, and other activities directly relating to the extraction and moving off premises are included in the extraction operation.

**Fairgrounds:** A non-profit facility operated by a charitable organization, religious institution, educational institution, or a county, township, city or village authority including a council, commission, department, or office thereof, used principally for carnival-like events such as farm animal and farm product exhibits and associated competitions, rodeos, circuses, food booths and games, rides, musical events, tractor pull competitions, and demolition derbies, all of which typically occur during a one or two week period during the summer as part of a fair but which may also occur at lesser frequency throughout the year as part of other fairs or as individual events such as animal exhibitions and animal competitions. Fairgrounds may include community meeting or recreation buildings, and fairgrounds may be made available for use by community interest groups such as garden clubs, community education groups, association groups, and other special interest groups.

**Family:**

- a. An individual or group of two or more persons related by blood, marriage, or adoption, including foster children and servants, together with not more than two additional persons not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit; or
- b. A collective number of individuals domiciled 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. This definition shall not apply in instances of group care centers, or state licensed residential facilities as established under P.A. 395 of 1976, as amended.

**Farm:** Land and associated buildings and machinery used for agriculture comprising at least ten (10) contiguous acres, and which may contain other non-contiguous acreage, all of which is operated by a sole proprietorship, partnership, or corporation. See definition for agriculture.

**Farm Building:** Any building or accessory structure, other than a dwelling unit, which is customarily used on a farm in the pursuit of agriculture. See definition for agriculture.

**Fence:** An accessory structure artificially constructed to serve as an obscuring screen, physical barrier, and/or decorative landscape element.

**Filling:** The depositing or dumping of any matter into or onto the ground.

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- Floor Area, Gross:** The sum of all gross horizontal areas of all floors of a building or buildings, measured from the interior faces of exterior walls.
- Floor Area, Usable:** For the purposes of computing parking requirements, usable floor area shall be considered as that area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or for restrooms and janitorial service rooms, shall be excluded from the computation of usable floor area. Usable floor area shall be measured from the interior faces of the exterior walls and includes the sum of the usable floor area for all floors unless expressly specified otherwise.
- Frontage:** The total continuous length of the front lot line.
- Garage:** An accessory building or an accessory portion of a principal building designed or used primarily for the storage of non-commercial motor vehicles, boats, motor homes, snowmobiles, and similar vehicles owned and used by the occupants of the building to which it is accessory.
- Golf Course/Country Club:** A golf course, public or private, where the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as a principal use.
- Grade, Finished:** The elevation of the ground surface upon the completion, or intended completion, of construction and improvements.
- Grade, Natural:** The elevation of the ground surface in its natural state, before man-made alterations.
- Home Occupation:** An occupation or profession conducted entirely within a dwelling or accessory structure which is clearly incidental and secondary to the residential use of the lot, does not change the character of the dwelling, and meets all applicable provisions of this Ordinance. A family day care facility shall not be construed to be a home occupation.
- Hospital:** An institution which is licensed by the Michigan Department of Public Health to provide in-patient and out-patient medical and surgical services for the sick and injured, and which may include such related facilities as laboratories, medical testing services, staff offices, pharmaceutical services, and other support facilities and services.
- Hotel:** See "motel."
- Intensive Livestock Operation:** A farm operation which exceeds a total of seven hundred fifty (750) animal units, whether continuously or intermittently during any twelve (12) month period: The number of animal units shall be measured as follows
- |                           |                              |
|---------------------------|------------------------------|
| a. horses:                | 2.00 animal units per animal |
| b. cows, cattle, buffalo: | 1.20 animal units per animal |
| c. swine:                 | 0.40 animal units per animal |
| d. sheep and goats:       | 0.10 animal units per animal |
| e. all fowl:              | 0.05 animal units per animal |
- Junkyard:** Any land or building used for: 1) the abandonment, storage, keeping, collecting, selling, exchanged or baling of junk including paper, rags, scrap metals, or other scrap or discarded materials; and/or 2) the abandonment, demolition, dismantling, storage, keeping, collecting, selling, exchanging or salvaging of machinery, automobiles or other vehicles not in normal running condition, or parts thereof. A junkyard may also be referred to as a salvage yard.
- Kennel:** A lot or premises on which four (4) or more dogs, or four (4) or more cats, or four (4) or more similar animals, six (6) months of age or older, are kept either permanently or temporarily for the purposes of breeding, boarding, leasing, training, sale, or transfer.
- Lakefront Lot:** A lot that abuts an official state-named lake in excess of twenty (20) acres in surface area, according to the ordinary high water mark, irrespective of whether the lot is in a in a platted subdivision or condominium subdivision or is described by metes and bounds.
- Livestock:** Cattle, buffalo, horses, deer, sheep, goats, swine, poultry and other similar domestic animals or fowl commonly kept or raised on a farm.
- Loading Space:** An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

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**Lot:** A tract of land occupied, or intended to be occupied, by one or more buildings or uses, together with such yards and open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records. A lot may include a platted lot or portion thereof, a parcel of land described by metes and bounds or a portion of such parcel described by metes and bounds. Within a site condominium, a condominium unit shall be synonymous with a lot for the purposes of compliance with this Ordinance (see *Figure 22-1 at end of this Article*).

**Lot Area:** The area of the horizontal plane within the lot lines of a lot, exclusive of any public or private road right-of-way or easement abutting any side of the lot, except that such right-of-way or easement may be included within the calculation of the area of a lot in the case where such lot is not part of a platted or site condominium and the area calculation equals two (2) acres or more.

**Lot, Corner:** Any lot having at least two (2) contiguous sides abutting upon one or more streets or approved private roads, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees. A lot abutting a curved street(s) shall be a corner lot if the arc has a radius less than one hundred and fifty (150) feet. (see *Figure 22-1 at end of this Article*).

**Lot Coverage:** The amount of a lot, stated in terms of percentage, which is covered by all buildings, and/or structures located thereon. This shall be deemed to include all buildings, roofed porches, breezeways, patio roofs, whether open box types and/or lathe roofs, or fully roofed, but shall not be deemed to include fences, walls, or hedges used as fences, unroofed decks or patios or swimming pools. Lot coverage shall be measured from the drip line of the roof or from the wall or foundation if there is no projecting portion of the roof.

**Lot Depth:** The distance from the front lot line of the lot to its opposite rear line, measured midway between the side lot lines.

**Lot, Flag:** A lot whose access to a road is by a narrow strip of land part of the lot, or by a private right-of-way that crosses another property, and does not meet the frontage requirements of the district in which it is located (see *Figure 22-3 at end of Article*).

**Lot Lines:** The lines bounding a lot or parcel (see *Figure 22-3 at end of Article*).

a. **Lot Line, Front:** In the case of a lot not located on a corner, the line separating said lot from the public or private right-of-way. In the case of a corner lot or through lot, the front lot line shall be as designated on the plot plan or site plan, subject to approval of such plan. On a flag lot, the front lot line shall be the interior lot line most parallel to and nearest the road from which access is obtained (see *Figure 22-3 at end of this Section*).

b. **Lot Line, Rear:** The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line at least ten feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line (see *Figure 22-3 at end of Article*).

c. **Lot Line, Side:** Any lot line other than a front or rear lot line (see *Figure 22-3 at end of Article*).

**Lot, Through:** A lot having frontage on two (2) roads other than a corner lot (see *Figure 22-1*).

**Lot Width:** The straight line horizontal distance between the side lot lines, measured at the two (2) points where the minimum required front setback line intersects the side lot lines).

**Manufactured Housing.** A dwelling unit which is designed for long term residential use and is wholly or substantially constructed at an off-site location.

**Manufactured Housing Community:** A parcel or tract of land under the control of a person upon which 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 therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

**Master Deed:** The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved bylaws for the condominium subdivision and the condominium subdivision plan.

**Medical Clinic:** An establishment where human patients, 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.

**Mini Storage:** A building or group of buildings that contains individual compartmentalized and controlled access stalls or lockers for the storage of customer's goods or wares which are generally not used on a daily basis.

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**Mobile Home:** A structure, transportable in one or more sections, which is built on 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. The term mobile home shall not include pick-up campers, travel trailers, motor homes, modular homes, recreational vehicles, converted buses, tent trailers, or other transportable structures designed for temporary use.

**Motel:** A building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers. The term "motel" shall include buildings designated as hotels, auto courts, tourist courts, motor courts, motor hotel, and similar appellations which are designed as integrated units of individual rooms under common ownership. A motel shall not be construed as a multiple family dwelling.

**Motor Home:** A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreational activities and temporary occupancy.

**Nonconforming Building or Structure:** A building or structure (or portion thereof) lawfully existing at the time of adoption of this Ordinance or a subsequent amendment thereto, that does not conform to the provisions of this Ordinance relative to height, bulk, area, placement, yards or similar features for the District in which it is located.

**Nonconforming Lot:** A lot lawfully existing at the effective date of this Ordinance, or affecting amendment, and which fails to meet the area and/or dimensional requirements of the District in which it is located.

**Nonconforming Use:** A use of a building or structure, or of a parcel or tract of land, lawfully existing at the time of adoption of this Ordinance or subsequent amendment thereto, that does not conform to the regulations of the District in which it is located.

**Nuisance:** Any offensive, annoying, unpleasant, or obnoxious thing or practice or a cause or source of annoyance, 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, or endangers life and health.

**Nursing Home:** A facility other than a hospital, having as its primary function the rendering of 24-hour nursing care for extended periods of time to persons afflicted with illness, injury, or an infirmity.

**Open Space Community (OSC):** A tract of land developed for residential purposes as a neighborhood or community unit, that more effectively encourages the preservation of open space and natural resources than under typical District standards, by developing the parcel with smaller lots than normally permitted on one or more portions of the parcel, and the balance of the parcel set aside as permanent open space.

**Ordinary High Water Mark:** The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil.

**Owner:** The owner of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, leasee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property, or his or her duly authorized agent.

**Parcel:** A lot described by metes and bounds or described in a recorded plat.

**Parking Space:** An area of definite length and width as designated in this Ordinance for parking an automobile or other vehicle, and which is fully accessible for such purposes.

**Plat:** A map of a subdivision of land recorded with the Register of Deeds pursuant to the Land Division Act of 1996, as amended, or a prior statute.

**Plot Plan:** A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance. A plot plan generally contains less comprehensive and detailed information about improvements proposed on the site than does a site plan, and is required for such uses as single family dwellings and two family dwellings. Plot plan approval is generally delegated to the Zoning Administrator.

**Principal Building:** The main building on a lot in which the principal use exists or is served by.

**Principal Use:** The main use to which the premises are devoted and the main purpose for which the premises exist.

**Private Wind Energy Conversion Facility (Private WECF):** An electricity generating facility consisting of one or more wind turbines, and may include cables, wires and other structures and buildings accessory to such facility, that is used to serve only the parcel on which the private WECF is located, and which generates no greater than ten (10) kilowatts peak capacity. A private WECF shall be construed as an accessory structure to the principle use of the parcel.

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**Prohibited Use:** A use of land which is not permitted within a particular zoning district.

**Public Utility:** Any person, firm, or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state, or municipal regulations to the public; gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation or water.

**Recreational Vehicle:** A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

**Recycling Center:** A facility where material is separated and processed prior to shipment for use in the manufacturing of new products. A recycling center is distinct from a junkyard or a salvage yard.

**Restaurant, Drive-through:** A restaurant in which all or a substantial portion of the business consists of serving foods and beverages in a ready-to-consume state from a drive-through window to patrons in motor vehicles. A drive-through restaurant may or may not also have indoor seating.

**Restaurant, Standard:** An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics:

- a. customers, normally provided with an individual menu, are served their food and beverage by a restaurant employee, at the same table or counter at which food and beverage are consumed;
- b. a cafeteria-type operation where food and beverage generally are consumed within the restaurant building.

The term "standard restaurant" shall not be interpreted to mean or include a drive-through restaurant.

**Restoration:** The reconstruction or replication of an existing building's original architectural features.

**Right-of-Way:** A public or private road, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

**Right-of-Way Line:** The legal line of demarcation between a right-of-way and abutting land.

**Road:** A state highway, county road, dedicated public thoroughfare or approved private road which affords the principal means of access to abutting property and if newly constructed, or reconstructed, meets construction standards promulgated by this Ordinance. The term "road" also includes the term "street."

**Road, Private:** A private way or means of approach, not dedicated for general public use, and meets the design and construction standards of this Ordinance.

**Road, Public:** Any public thoroughfare dedicated and maintained for the use and operation of vehicular traffic by the Montcalm County Road Commission, State of Michigan, or federal government.

**Service Station, Standard:** A place used primarily for the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Such places may also perform minor automobile repair, limited to engine tune-ups and servicing of brakes, air conditioning, and 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. Standard service stations may also include up to four hundred (400) square feet of floor area used for the sale of convenience items such as food products, magazines, and similar convenience items.

**Service Station, Multiple Use:** A place used for more than one (1) principal use, one (1) of which is the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Other principal uses may include, but need not be limited to, a restaurant, convenience store, and car wash. Such places may also perform minor automobile repair, limited to engine tune-ups and servicing of brakes, air conditioning, and 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.

**Setback:** The minimum distance by which any building, structure, or use must be separated from a lot line or other specified feature.

**Sexually Oriented Business:** See Section 7.20 for definitions pertaining to sexually oriented businesses.

**Shooting Range:** Any indoor or outdoor facility designed for and devoted to the shooting of firearms or archery equipment, including facilities for which a fee is charged and similar commercial facilities. Depending upon the type of shooting range, such shooting range may also be commonly referred to as a gun club, hunt club, sportsman club, rifle range, pistol range, trap/skeet range, sporting clay range, and archery range. The personal use of a lot by its owner, for the shooting of firearms or archery equipment by such lot owner, shall not be construed to be a shooting range.

**Sign:** Refer to Article 9, Signs, for definitions pertaining to signs.

**Site Plan:** A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance. A site plan contains more comprehensive and detailed information about improvements proposed on the site than does a plot plan because of the more

## Montcalm Township Zoning Ordinance

complex nature of land uses required to receive site plan approval, such as business, industrial, and multiple family developments. Site plan approval is generally delegated to the Planning Commission.

**Special Land Use:** Uses and structures which are generally accepted as reasonably compatible with the primary uses and structures permitted in a District, but could present potential injurious effects upon the primary uses and structures within the District or are otherwise unique in character, and therefore require special consideration in relation to the welfare of adjacent properties and to the Township as a whole. All such uses are subject to a public hearing.

**Stable, Commercial:** A structure and/or land use where horses are bred, reared, trained, cared for, and/or boarded and does not meet all of the definition requirements of a private stable, as defined below. A farm does not constitute a commercial stable.

**Stable, Private:** An accessory structure and/or land use where horses are bred, reared, trained, cared for, and/or boarded, irrespective of remuneration, and where the horse density does not exceed one (1) horse for the first three (3) acres, and one (1) additional horse for each additional one-half (1/2) acre, up to seven (7) horses, and one (1) additional horse for each additional acre thereafter. A private stable may provide horse care and/or riding lessons but a private stable shall not be interpreted to include a facility providing horse shows, training exhibitions, or any other activity typically characterized by the gathering of spectators or observers. A farm does not constitute a private stable.

**Stop Work Order:** An administrative order which is either posted on the property or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this Ordinance.

**Story:** That portion of a building that is included between the surface of any floor and the surface of the floor immediately above it or, if there is no floor immediately above it, the space between the floor and ceiling or roof immediately above it. A basement, as defined in this Ordinance, shall not be considered a story.

**Story, Half:** The upper most story lying under a sloping roof where the distance from the floor to the sloping ceiling, measured along the walls, is four (4) feet or less along 66% or more of the total linear footage of wall. Such space shall be considered a half story only if its floor area exceeds 200 sq. ft. in gross floor area.

**Street:** See "Road."

**Structure:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location on the ground including but not limited to all buildings, independently supported decks, satellite dishes and free-standing signs; excepting anything lawfully in a public right-of-way including but not limited to utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes, and related public facilities and utilities defined as essential public services. Fences shall not be considered as "structures," but must comply with all applicable standards of this Ordinance.

**Swimming Pool:** A constructed basin or structure for swimming and aquatic recreation including above-ground and below-ground basins.

**Township Engineer:** The licensed staff engineer of the Township or a licensed engineer the Township may hire from time to time as needed.

**Truck Terminal:** A building or area in which freight brought by truck is assembled or stored for further routing or reshipment, or in which trailers are parked or stored during the interim between hauling runs, and may include accessory repair and maintenance services and other support facilities and services such as restroom and shower facilities.

**Use:** The purpose for which land or a building is arranged, designed or intended, or for which land or a building may be occupied.

**Variance:** A variance is a modification of the literal provisions of the Zoning Ordinance where such variance will not be contrary to the public interest and will mitigate an otherwise practical difficulty, and the issuance of which is based upon standards in this Ordinance (See Article 16). or unnecessary hardship.

**Veterinary Clinic:** An establishment which is licensed by the Michigan Department of Community Health to provide for the care, diagnosis, and treatment of sick or injured animals, including those in need of medical or surgical attention. A veterinary clinic may include fully enclosed pens or cages for the overnight boarding of animals receiving medical treatment and such related facilities as laboratories and offices.

**Vehicle Repair Shop:** Buildings and premises for the purpose of engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service such as body, frame and fender repair, and painting.



## Montcalm Township Zoning Ordinance

**Wind Energy Conversion Testing Facility:** A structure and accessory equipment used to determine the potential for the placement of a commercial WECF by measuring and recording the speed of the wind. A wind energy conversion testing facility may also be referred to as a “test tower.”

**Wind Turbine:** A wind energy system that converts wind energy into electricity through the use of a wind turbine generator, and includes the turbine, blade, tower, and base, and may include a transformer.

**Yard:** An open space, on the same lot with a principal building, unoccupied and unobstructed from the ground upward by a building or structure, except as otherwise permitted in this Ordinance and as defined herein (see *Figure 22-3 at end of this Article*):

- a. **Front Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the principal building. There shall be maintained a front yard on each street side of a corner lot. See definition for “Lot line, front.”
- b. **Rear Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the principal building. In the case of corner lots, there shall only be one rear yard which shall be determined by the owner.
- c. **Side Yard:** An open space between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest line of the principal building.

**Zoning Administrator:** The authorized individual charged with the responsibility of administering this Ordinance and appointed by the Township Board of Trustees.

**Zoning District:** See “District”.

**Zoning Permit:** A permit signifying compliance with the provisions of this Ordinance and issued by the Zoning Administrator upon approval of the proposed land use or development plan by the designated approving body.

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Montcalm Township Zoning Ordinance

Figure 22-1  
LOT TYPES

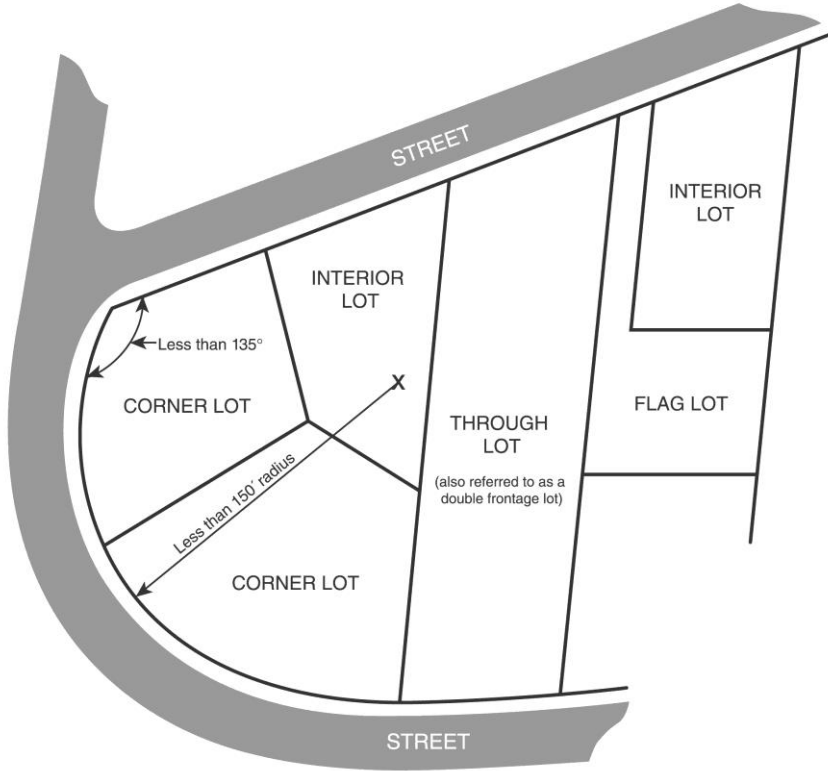
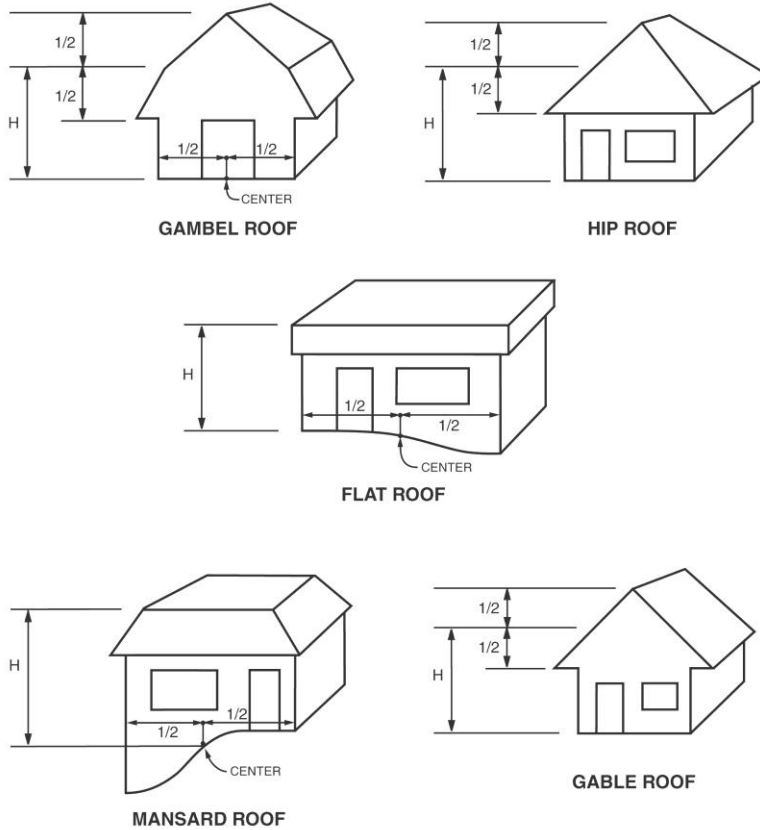
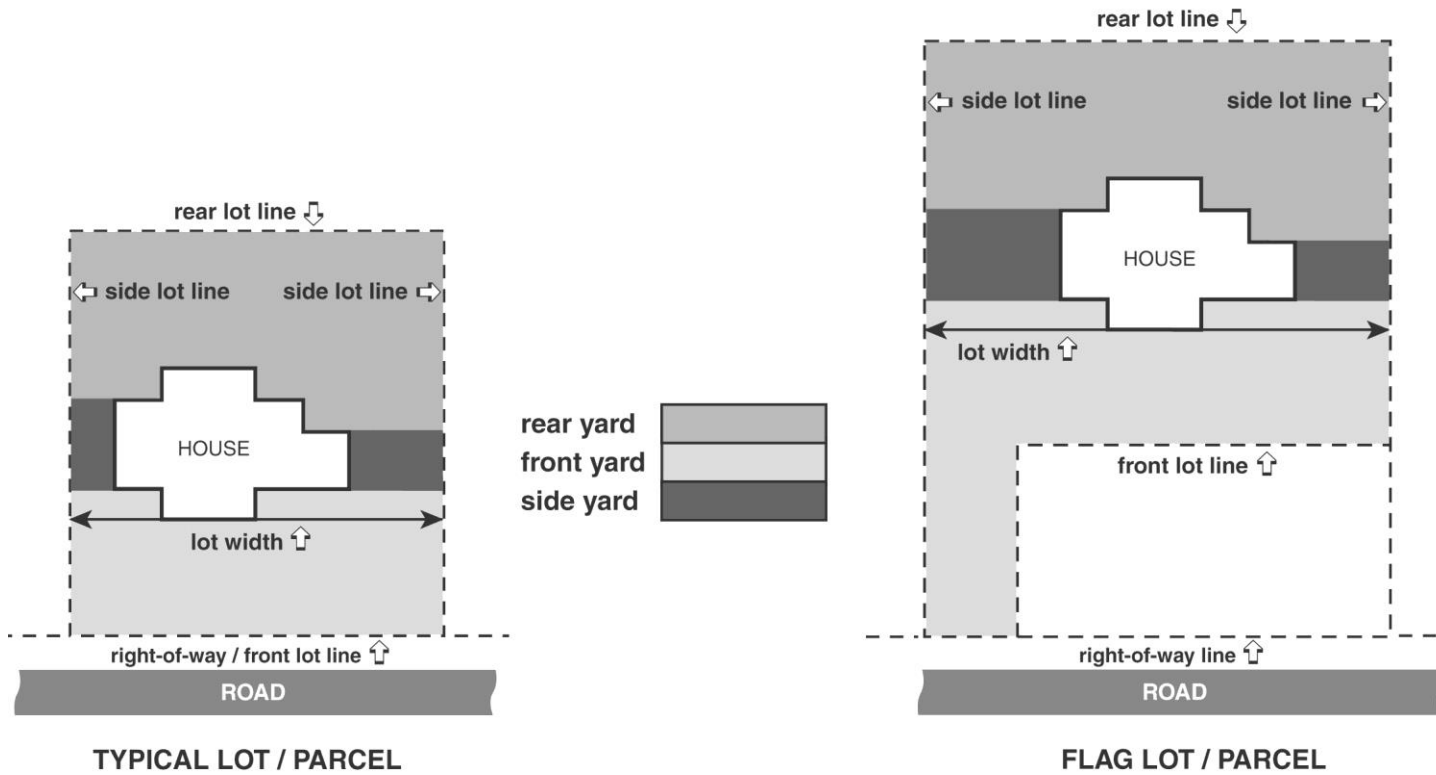


Figure 22-2  
BUILDING HEIGHTS



**Figure 22-3  
LOT LINES and YARDS**



*End of Article 22*

**Article 23**  
**INTERPRETATION, SEVERABILITY, VESTED RIGHT, REPEAL,**  
**and EFFECTIVE DATE**

**Section 23.01 Interpretation**

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of building or land, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or structures or land or upon the courtyards or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.

**Section 23.02 Severance Clause**

Sections of this Ordinance and amendments thereto shall be deemed to be severable and should any section, paragraph, or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid by court decree. Further, if any court shall declare invalid the application of any provision of this Ordinance to a particular parcel, lot use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot, use, building or structure not specifically included in said ruling.

**Section 23.03 Vested Right**

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare, except as provided in Article 20 (Nonconforming Uses, Lots and Structures).

**Section 23.04 Repeal**

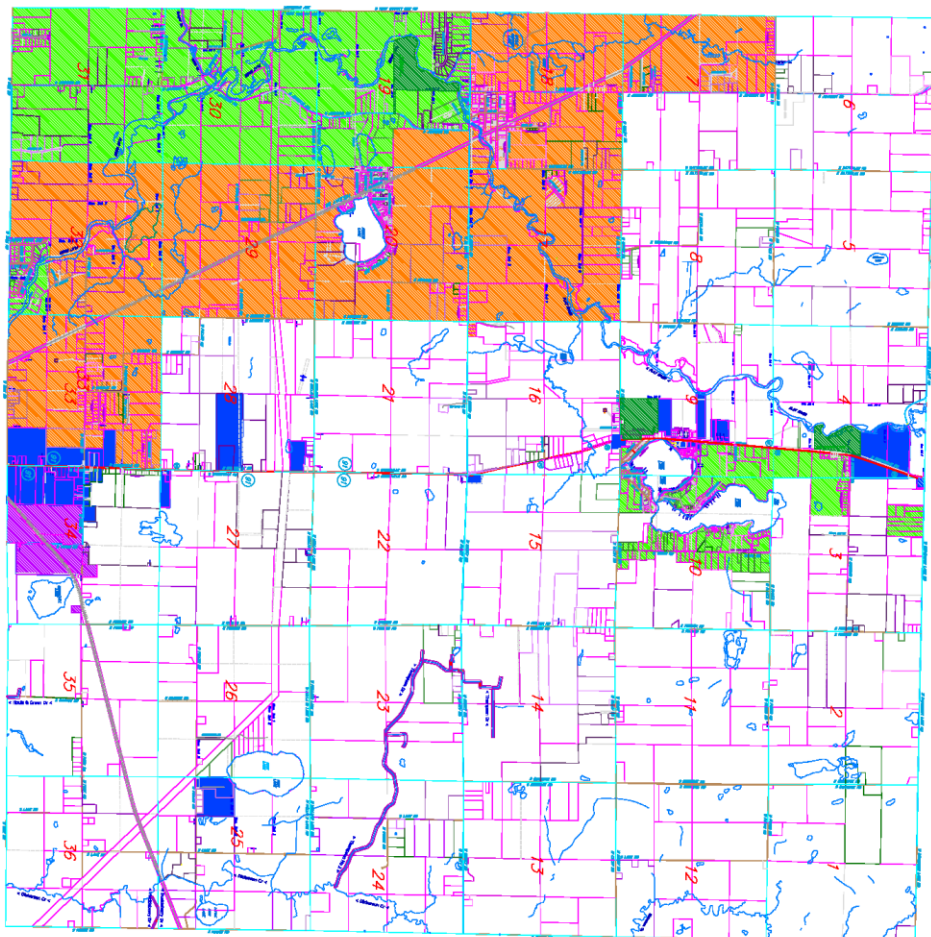
The Montcalm Township Zoning Ordinance adopted on May 6, 1981 and amendments thereto, is hereby repealed as of the effective date of this Ordinance. The repeal of such ordinance and its amendments does not affect or impair any act done, offense committed or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time it was enforced, prosecuted or inflicted.

**Section 23.05 Effective Date**

This Ordinance shall take effect eight (8) days following adoption and upon publication of a notice of adoption in accordance with the provisions and procedures of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended. Made and passed by the Township Board of the Township of Montcalm, Montcalm County, Michigan on the 10th day of April, 2013.

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**End of Article 23**



Montcalm Township  
2012 Zoning Map  
Print Date 10/11/2012

**Zoning Legend**

- R-1..... Agriculture
- R-2..... Single-Family Residential
- R-3..... Low Density Residential
- R-4..... Med Density Residential
- R-5..... Hi Density Residential
- R-6F..... Multi Family Residential
- R-7HC..... Manufactured Housing Community
- C-1..... Local Commercial
- C-2..... General Commercial
- I-1..... Light Industrial
- P..... Public Land

**Road Legend**

- State Highways
- County Primary Roads
- County Local Roads

**Natural Resources Legend**

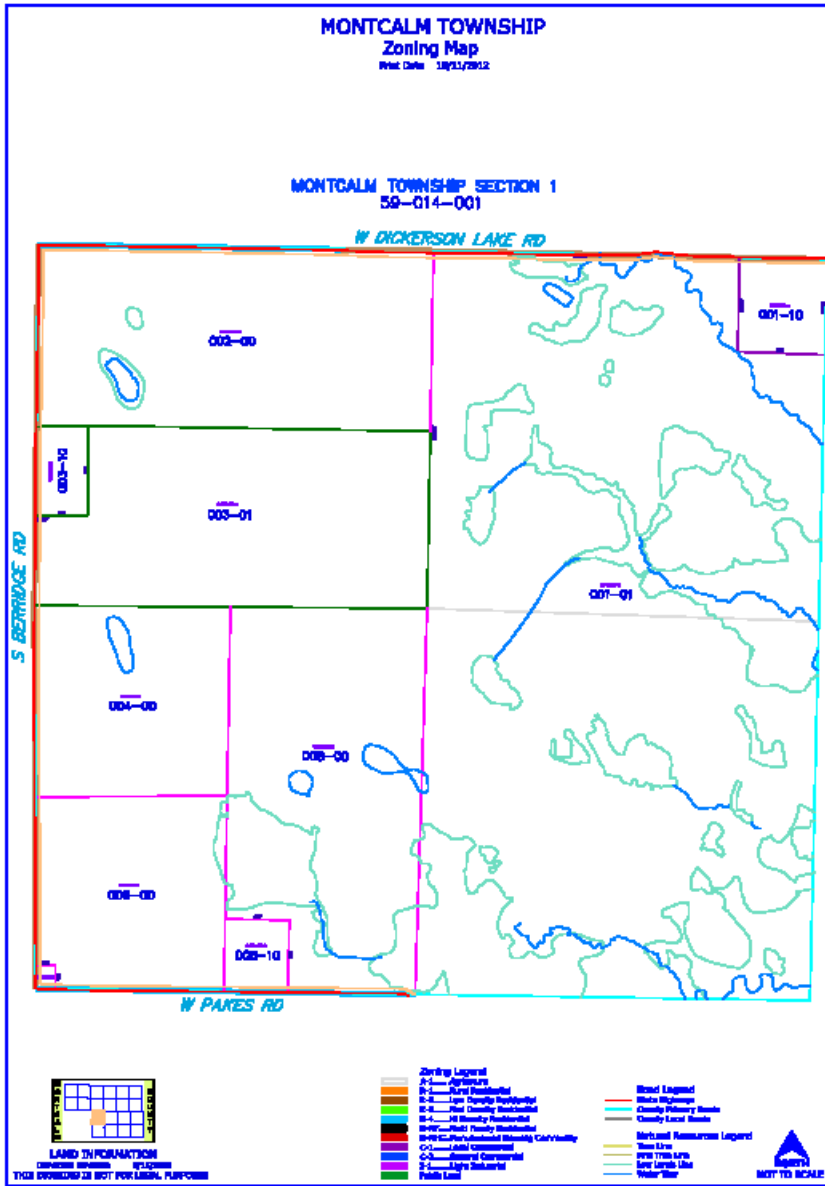
- Tree Line
- Pine Tree Line
- Low Lands Line
- Water Way

**LOCATION MAP**

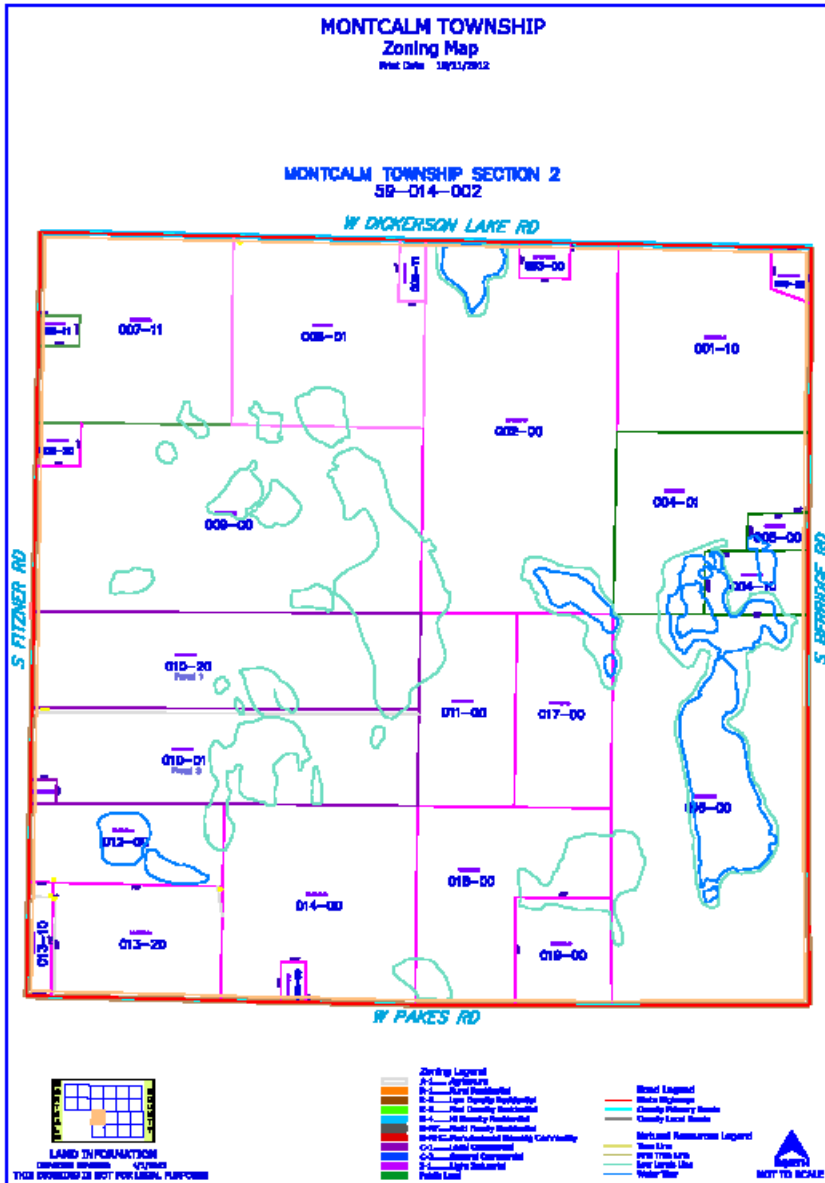
Montcalm County  
Equalization Department  
Land Information  
Published Date 10-11-2012  
Not For Legal Purposes  
Not to Scale

**NORTH**

Montcalm Township Zoning Ordinance

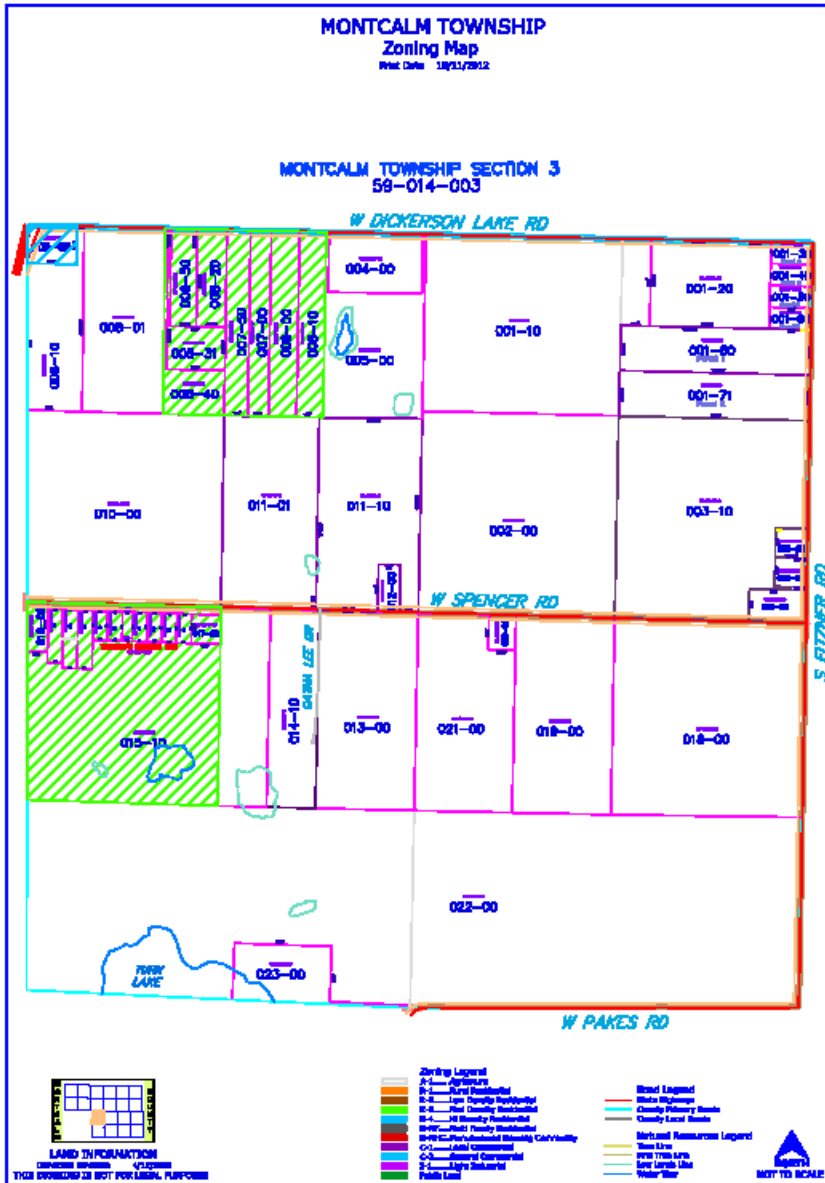


Montcalm Township Zoning Ordinance

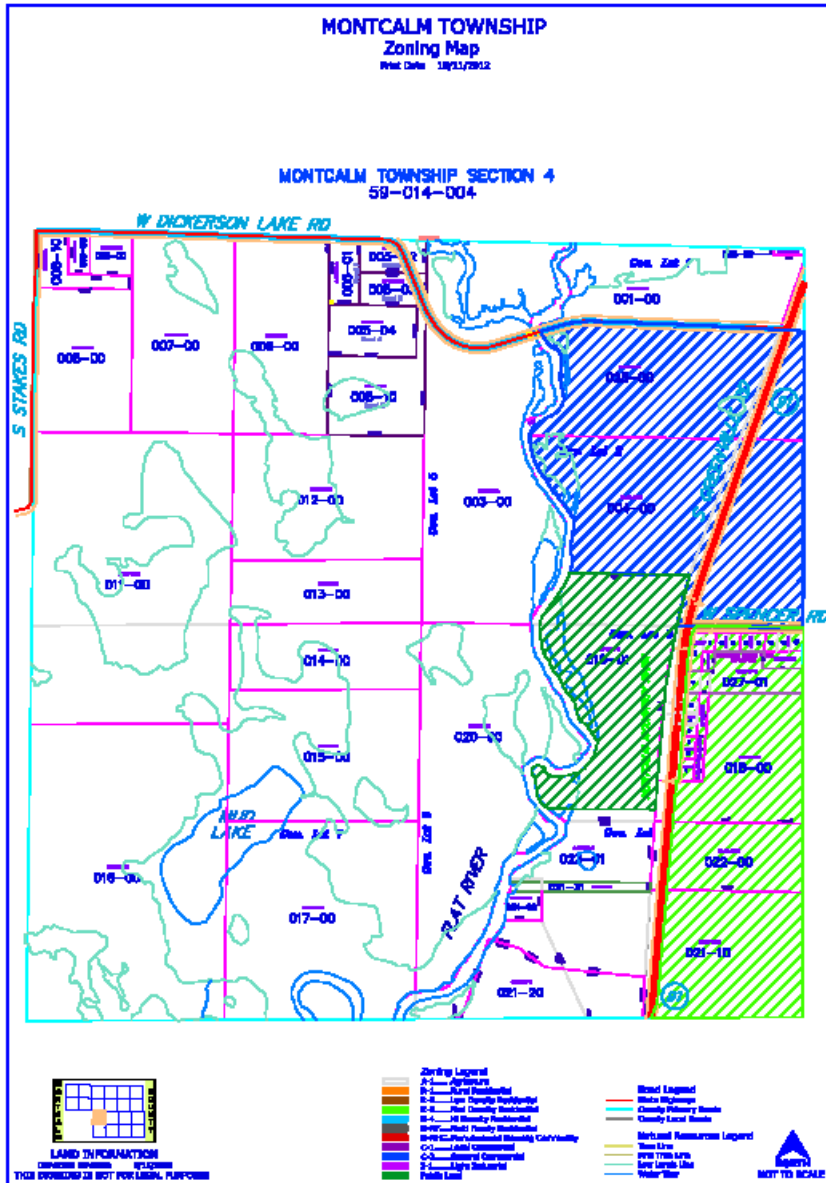




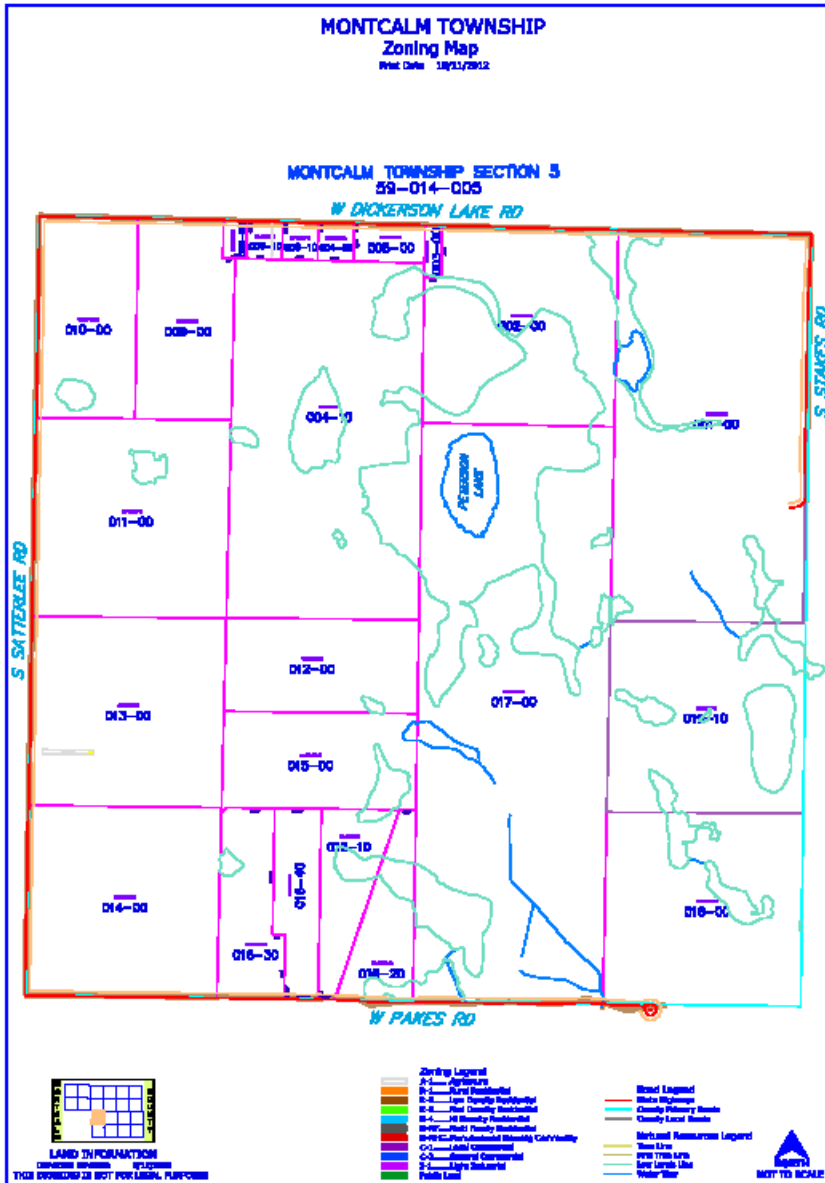
Montcalm Township Zoning Ordinance



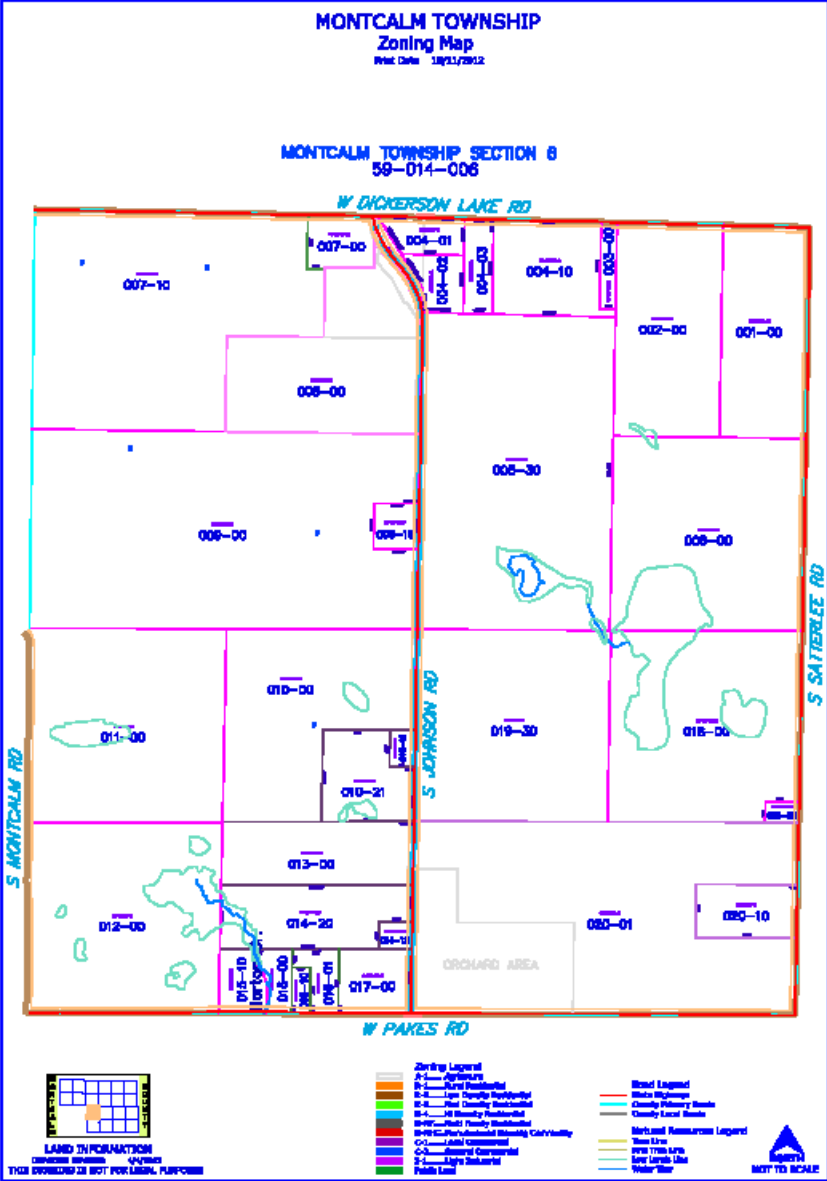
Montcalm Township Zoning Ordinance



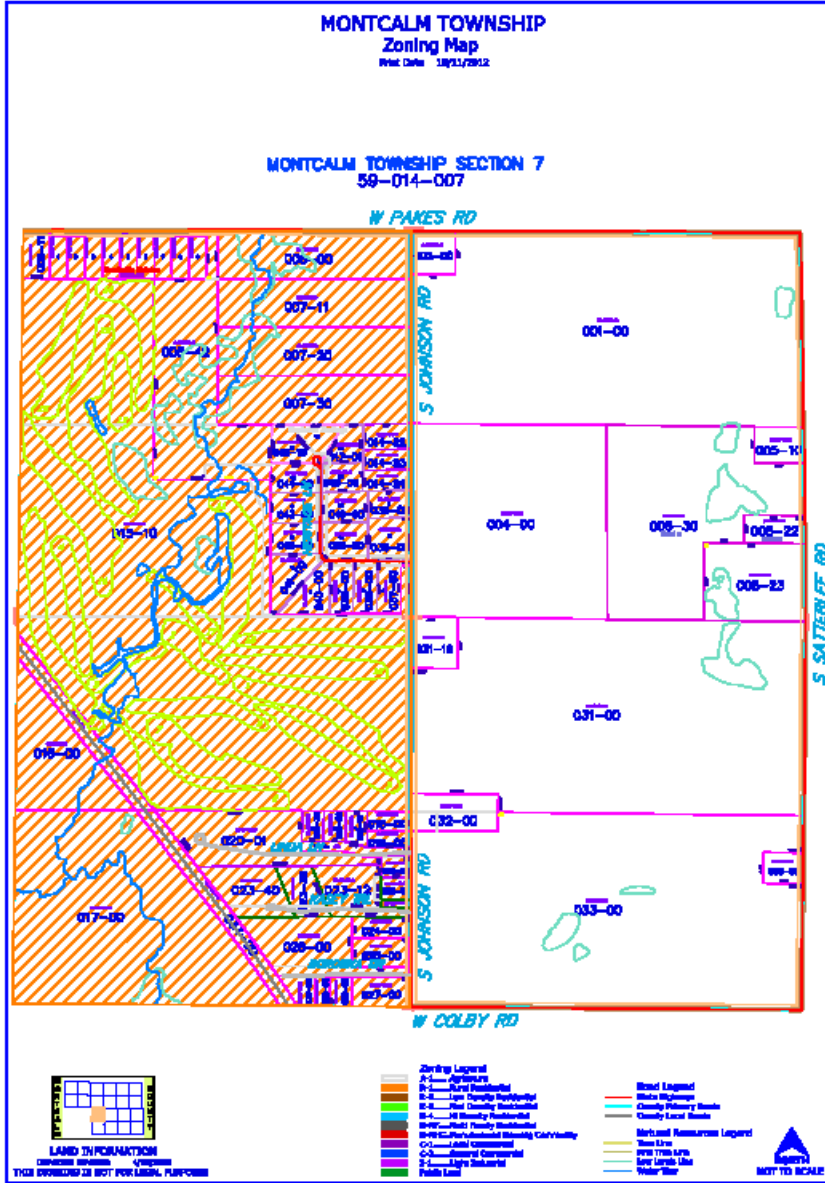
Montcalm Township Zoning Ordinance



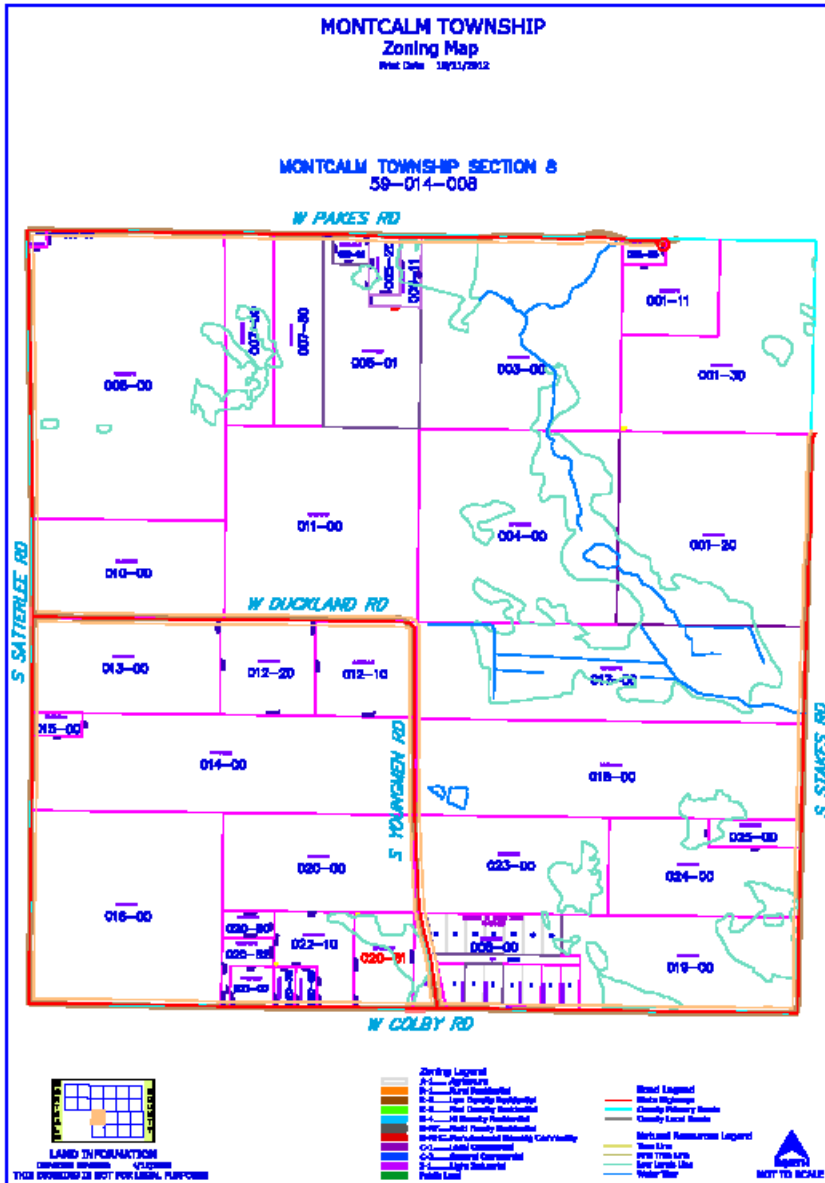
Montcalm Township Zoning Ordinance



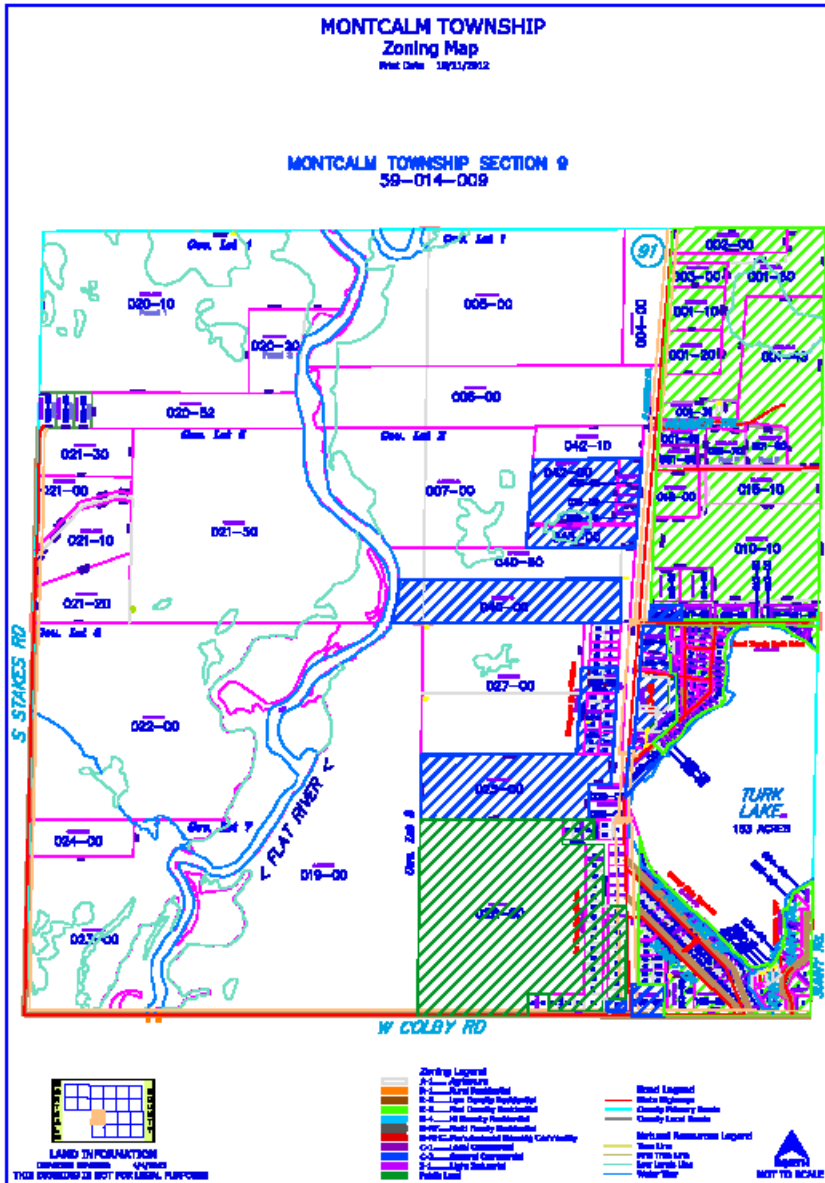
Montcalm Township Zoning Ordinance

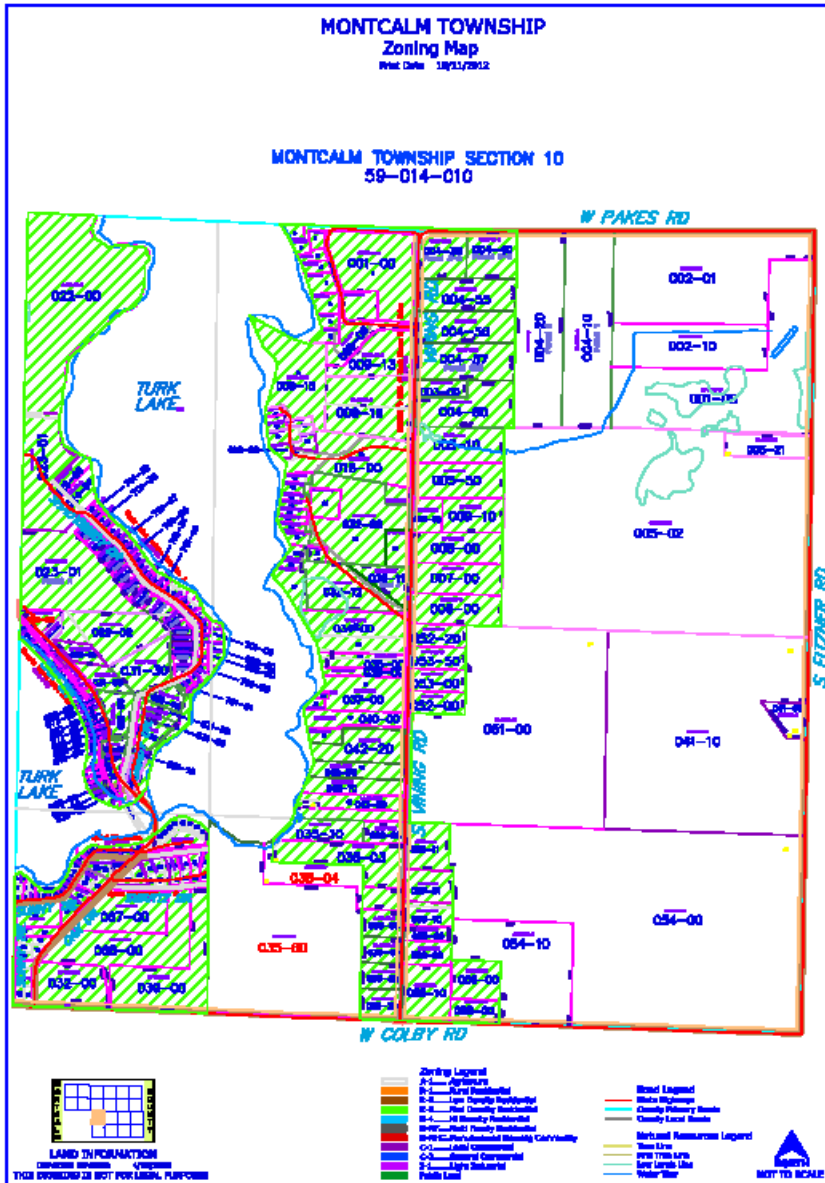


Montcalm Township Zoning Ordinance



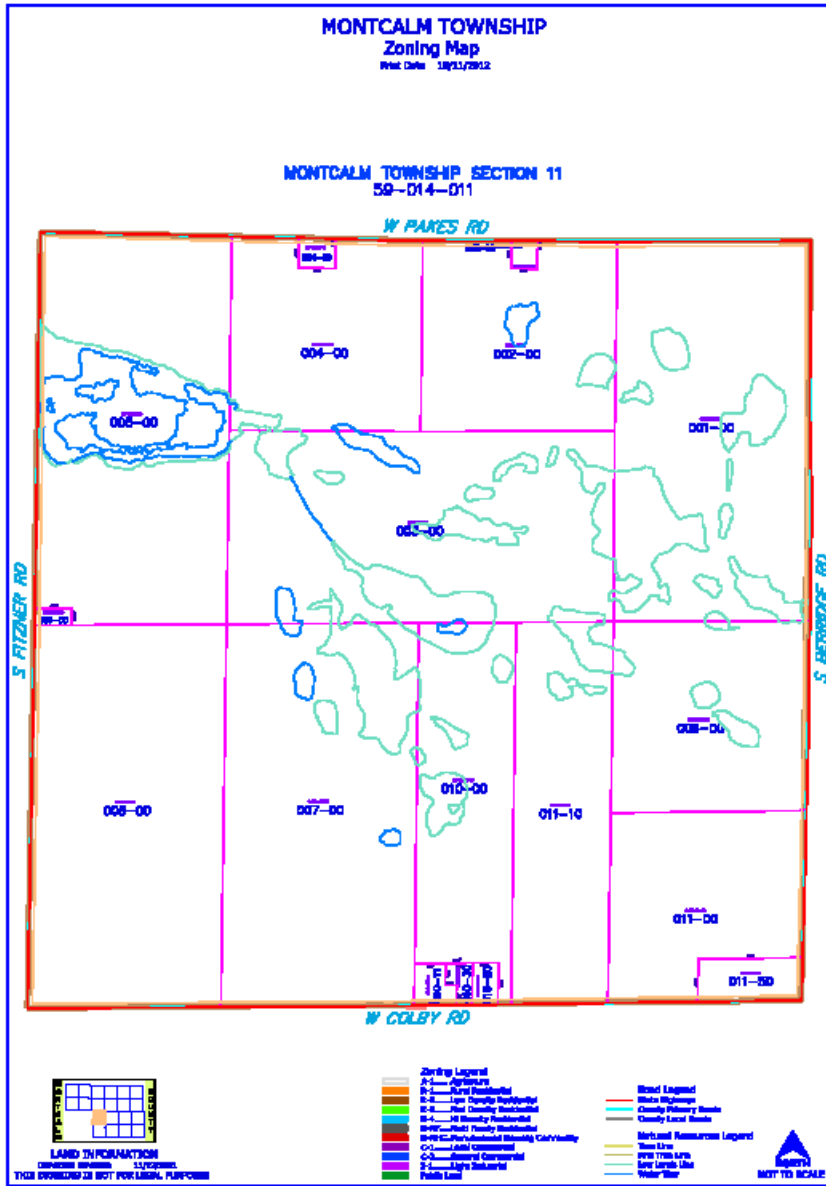
Montcalm Township Zoning Ordinance



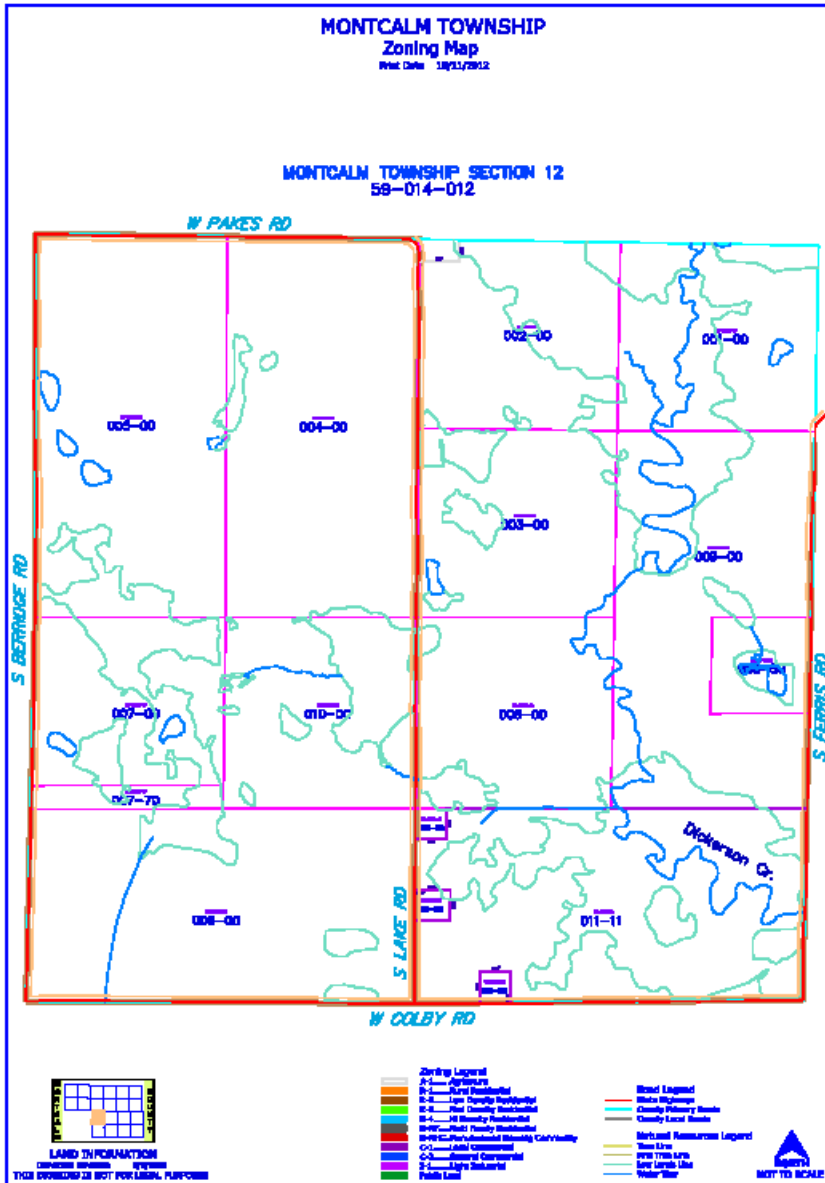




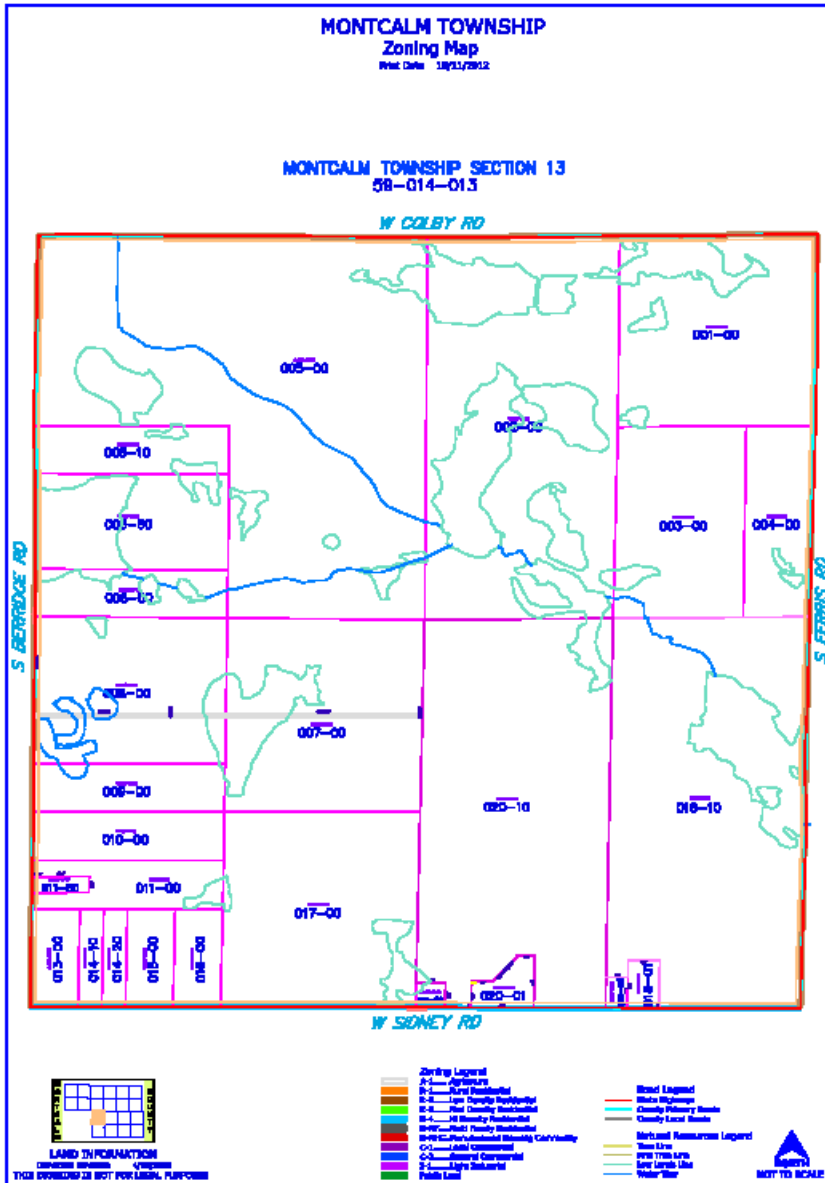
Montcalm Township Zoning Ordinance



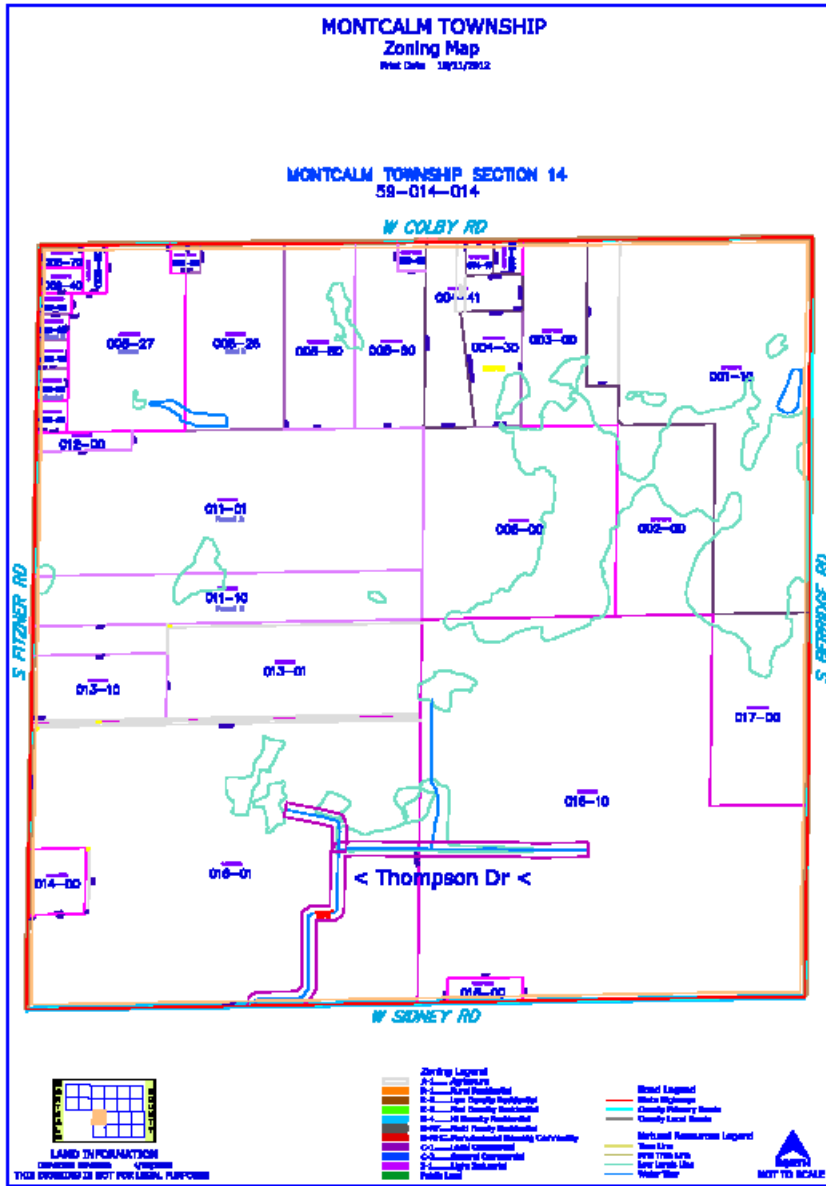
# Montcalm Township Zoning Ordinance



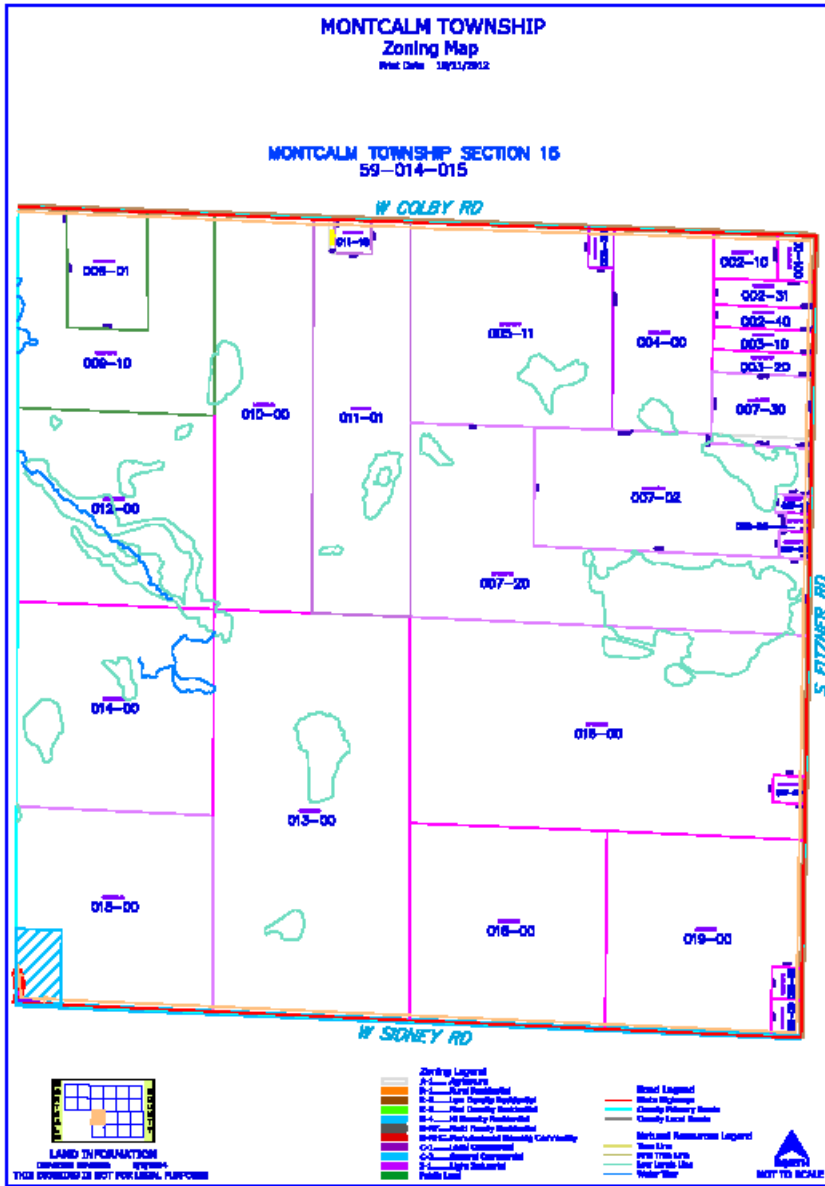
Montcalm Township Zoning Ordinance



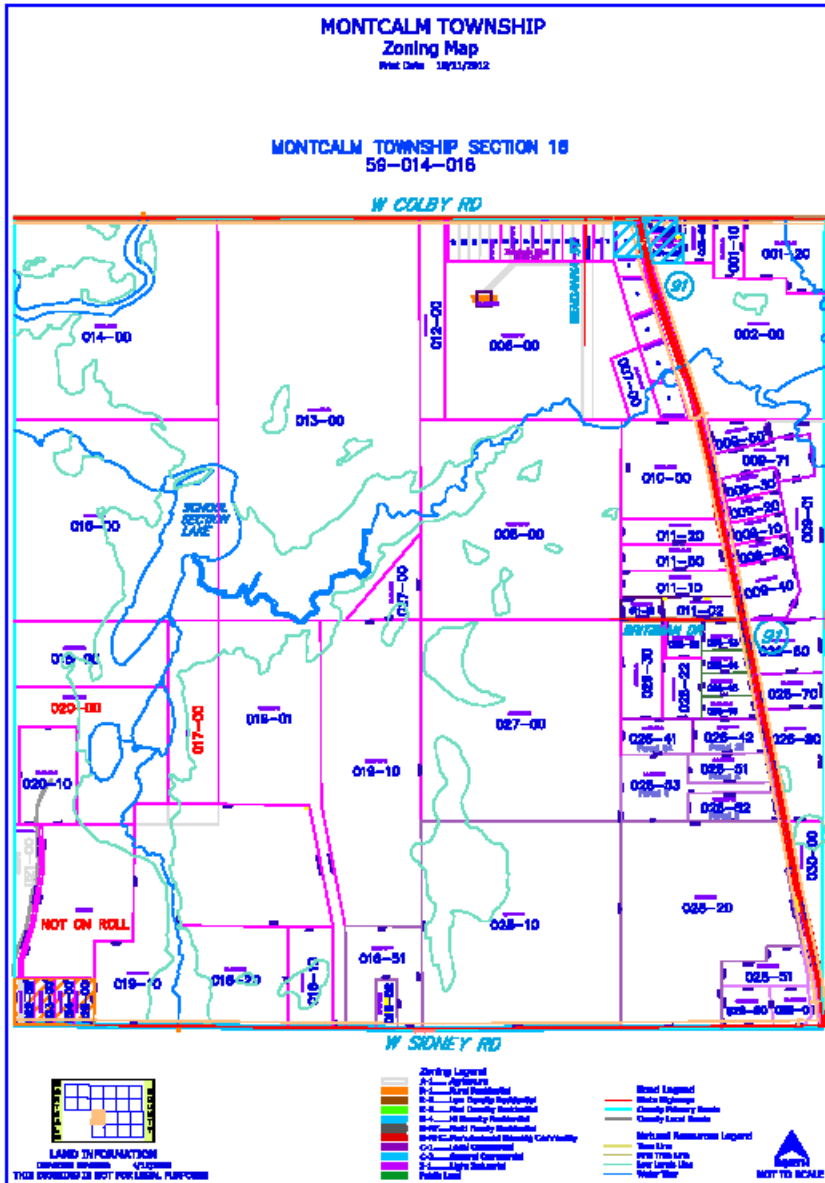
Montcalm Township Zoning Ordinance



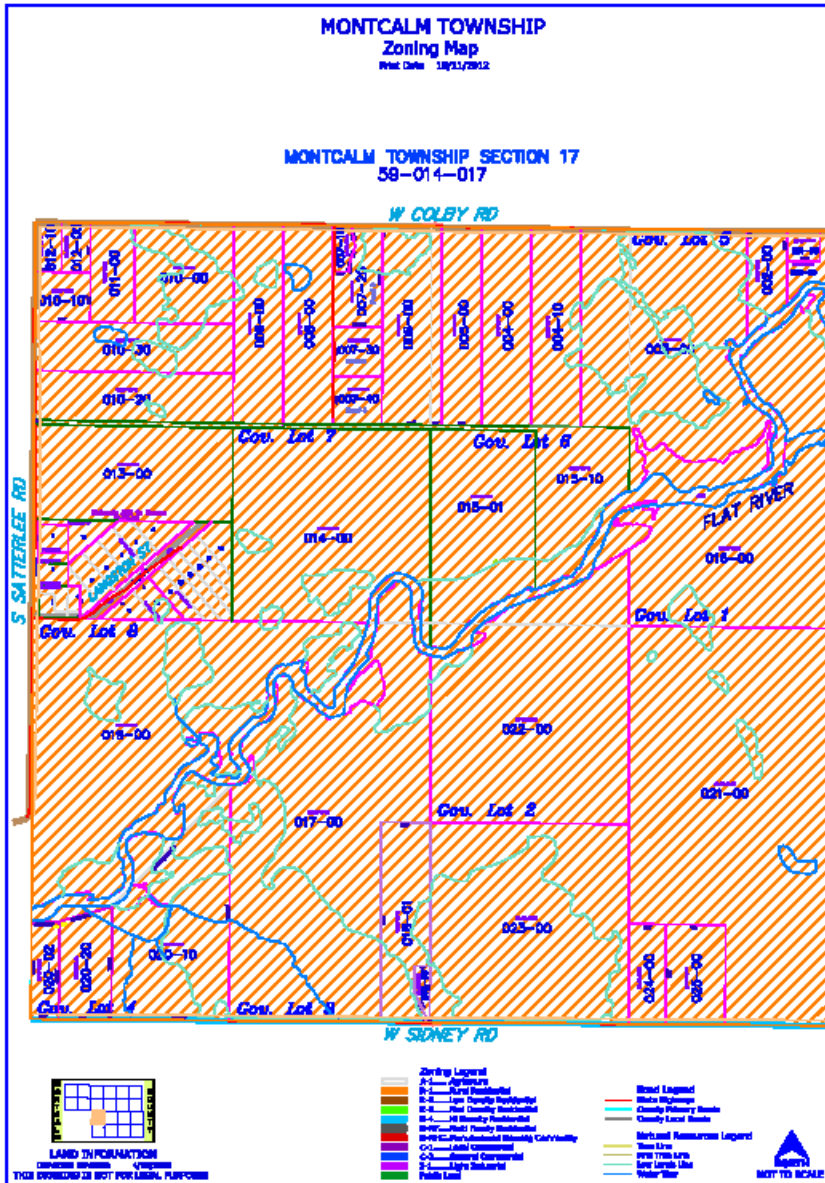
Montcalm Township Zoning Ordinance

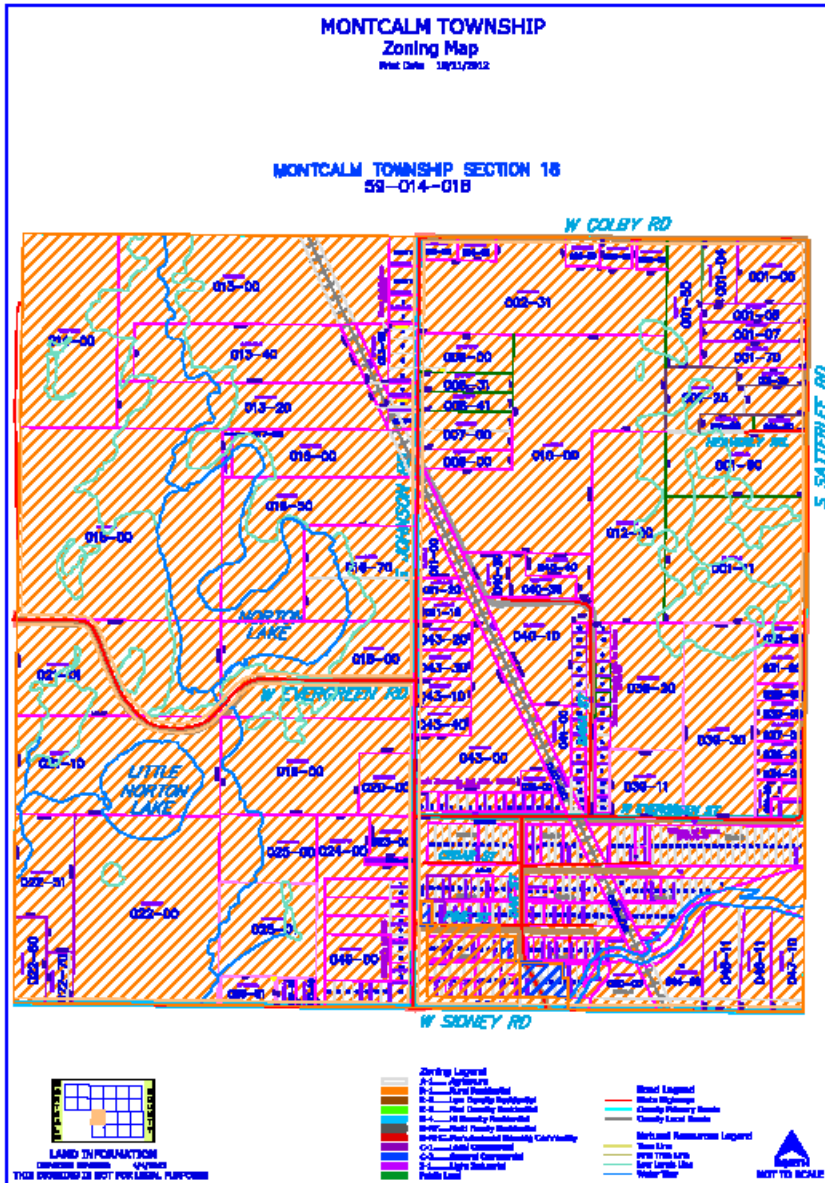


Montcalm Township Zoning Ordinance

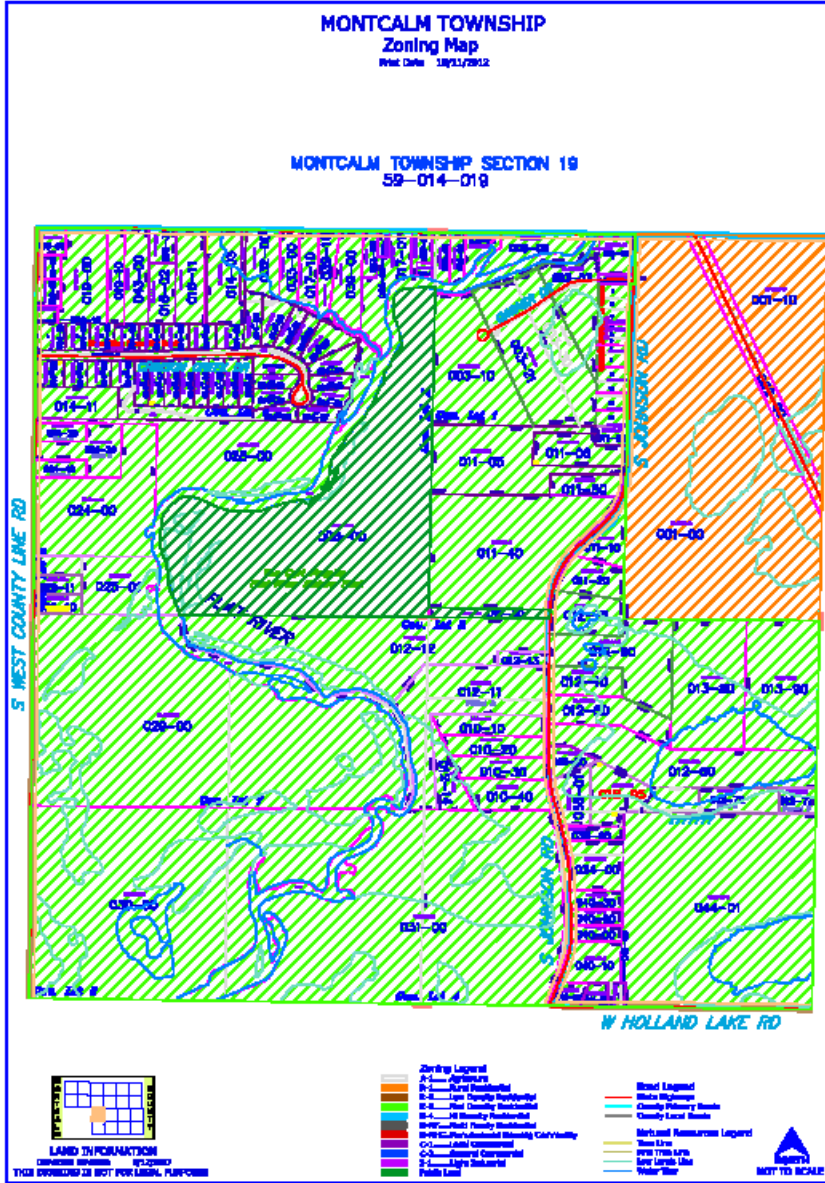


Montcalm Township Zoning Ordinance

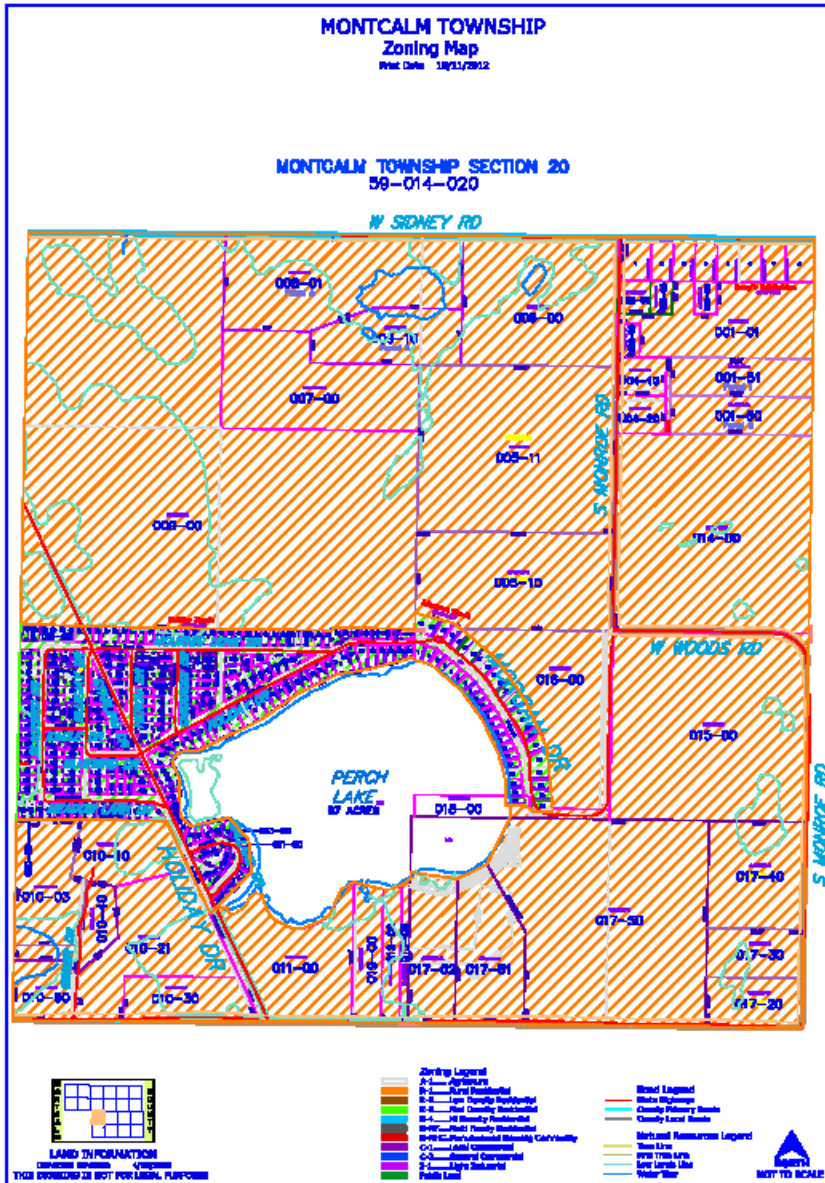




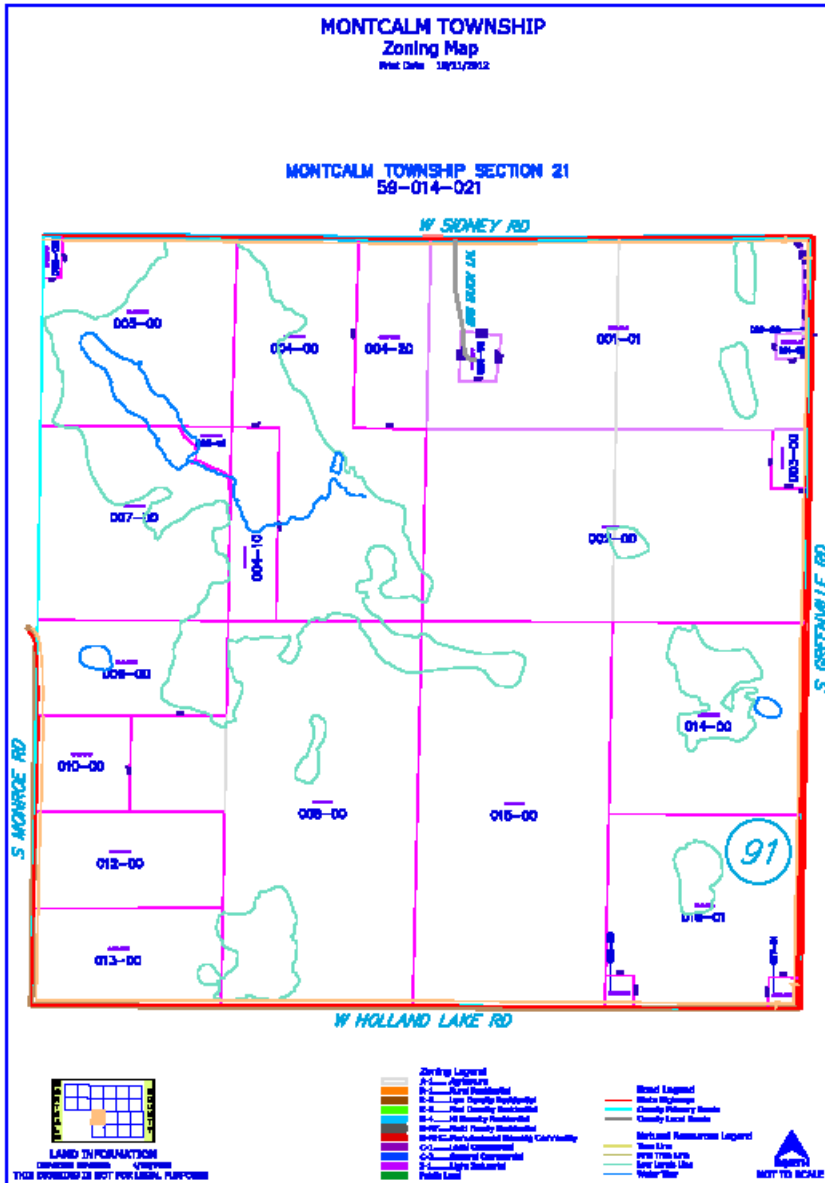




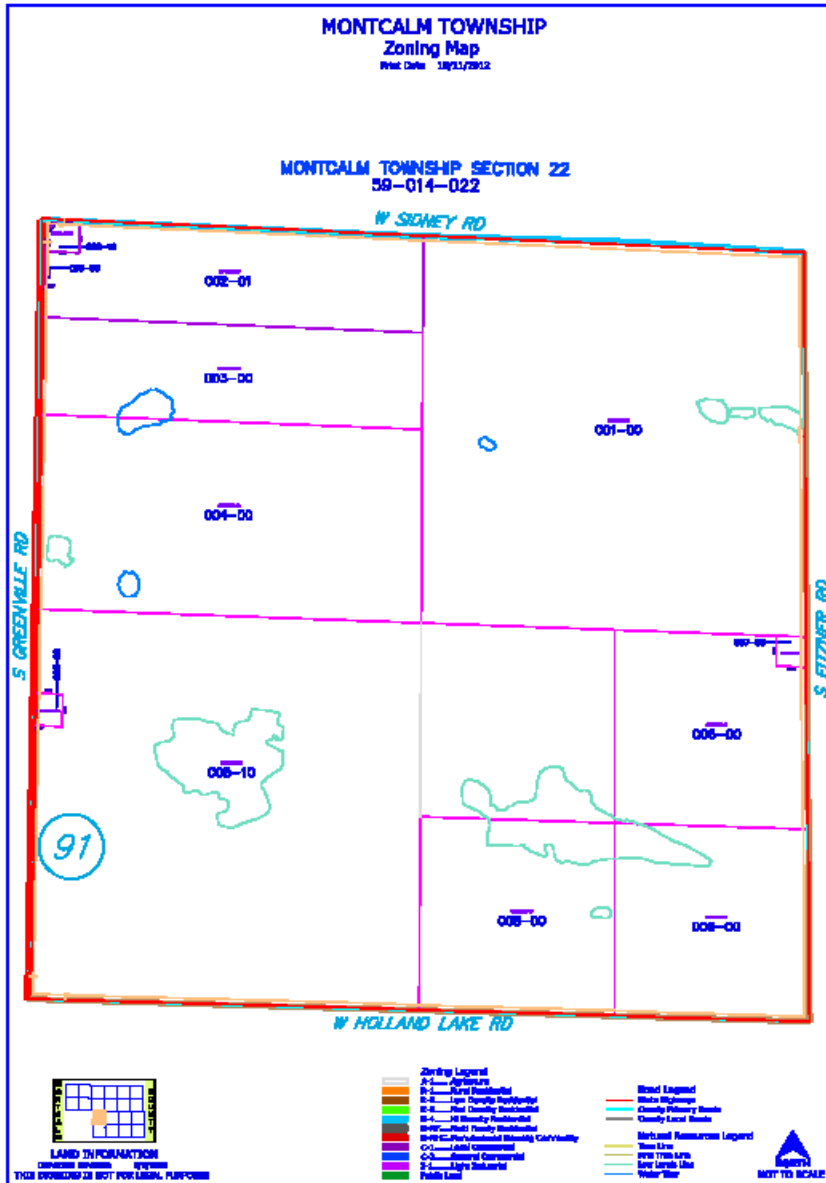
Montcalm Township Zoning Ordinance



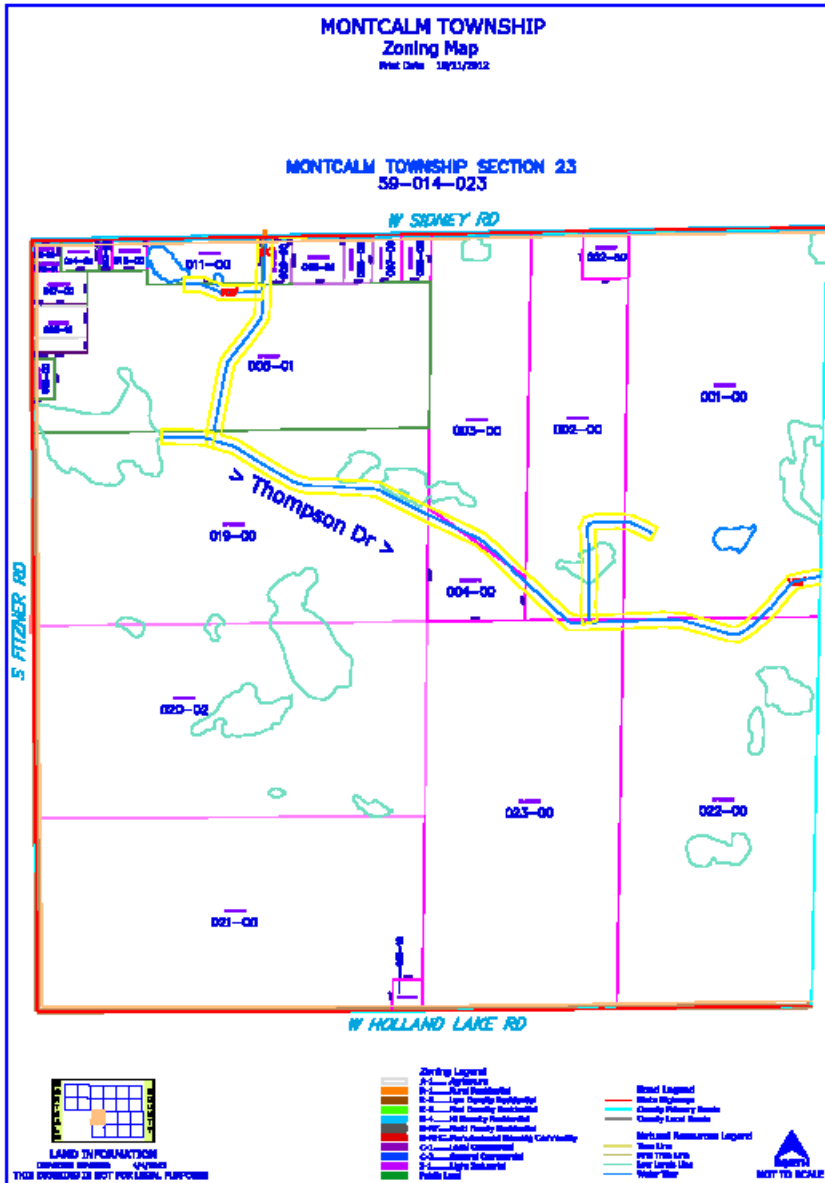
Montcalm Township Zoning Ordinance



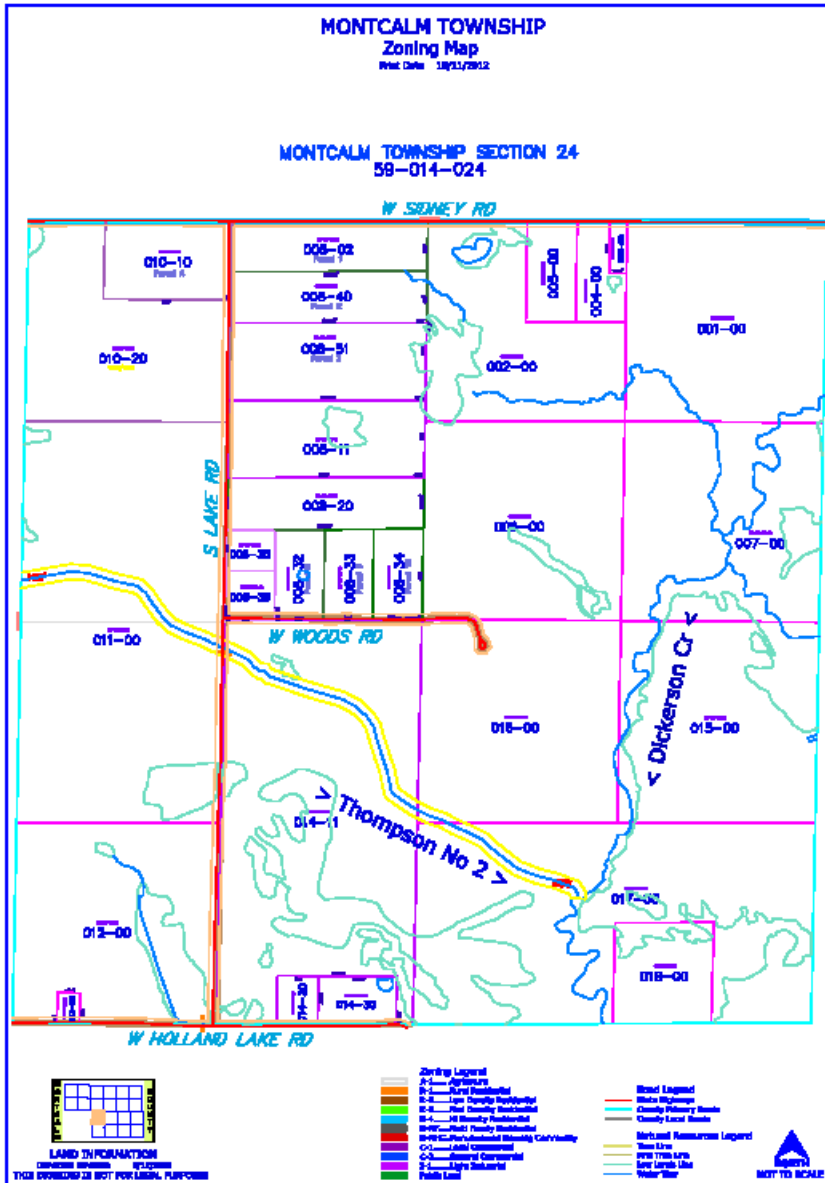
Montcalm Township Zoning Ordinance



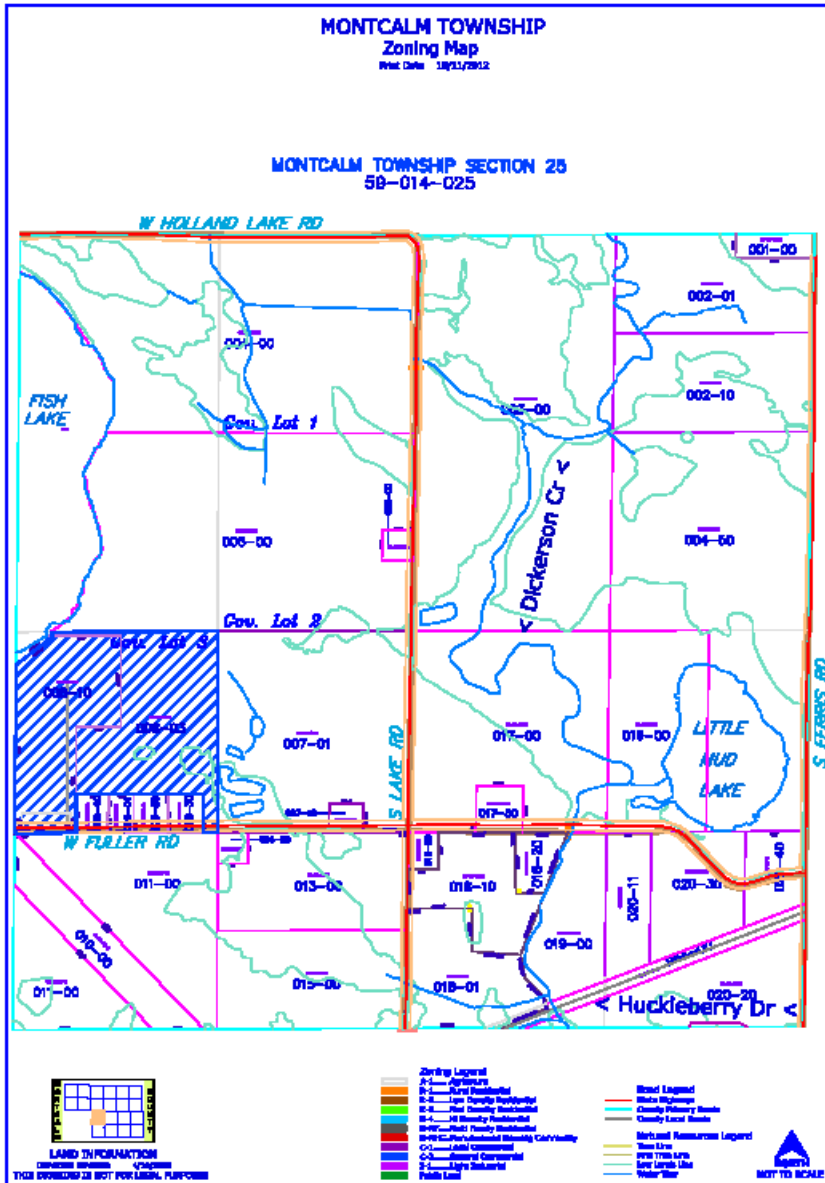
Montcalm Township Zoning Ordinance



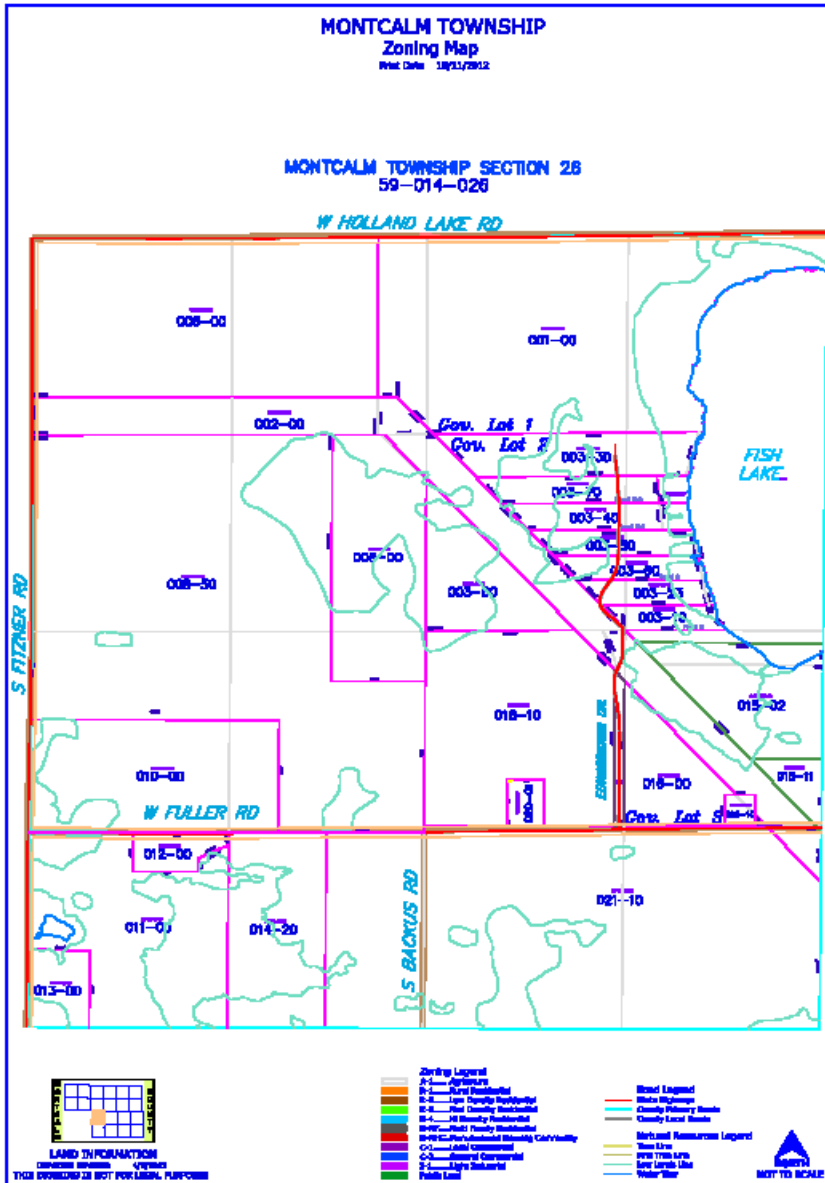
Montcalm Township Zoning Ordinance



Montcalm Township Zoning Ordinance

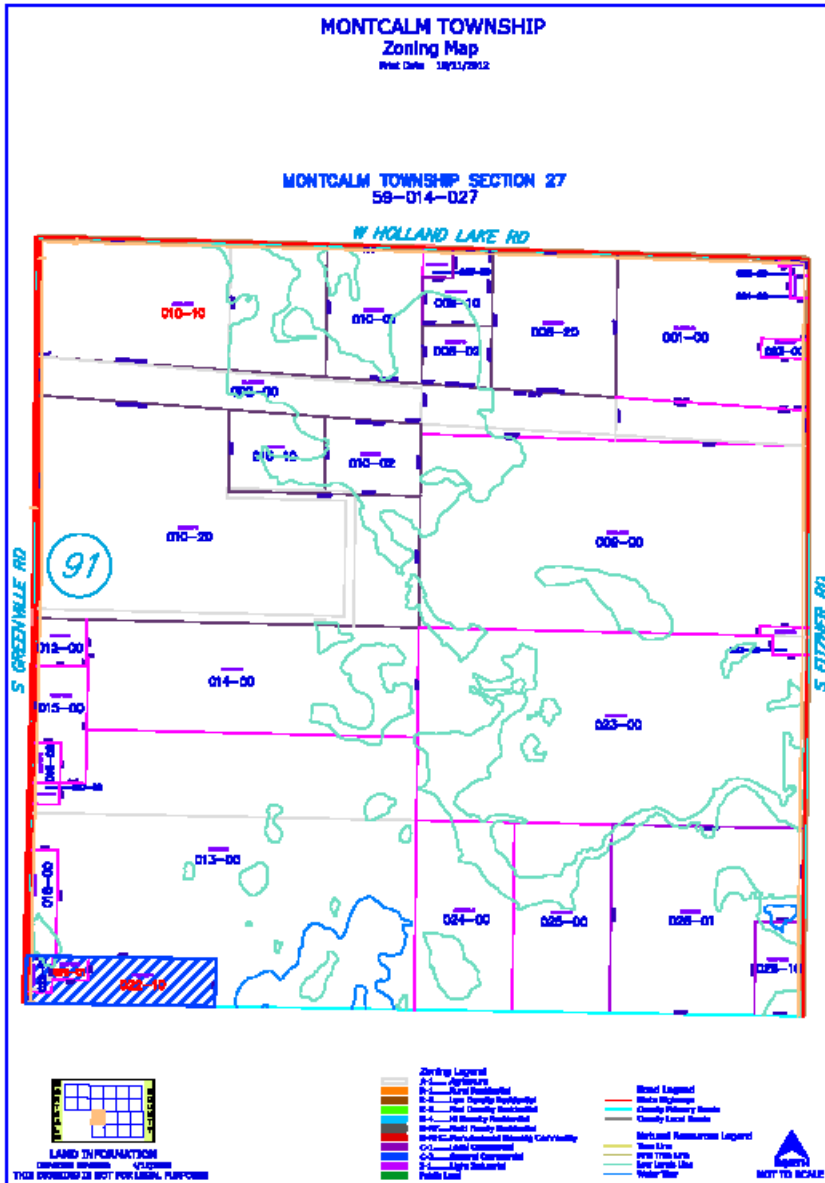


Montcalm Township Zoning Ordinance

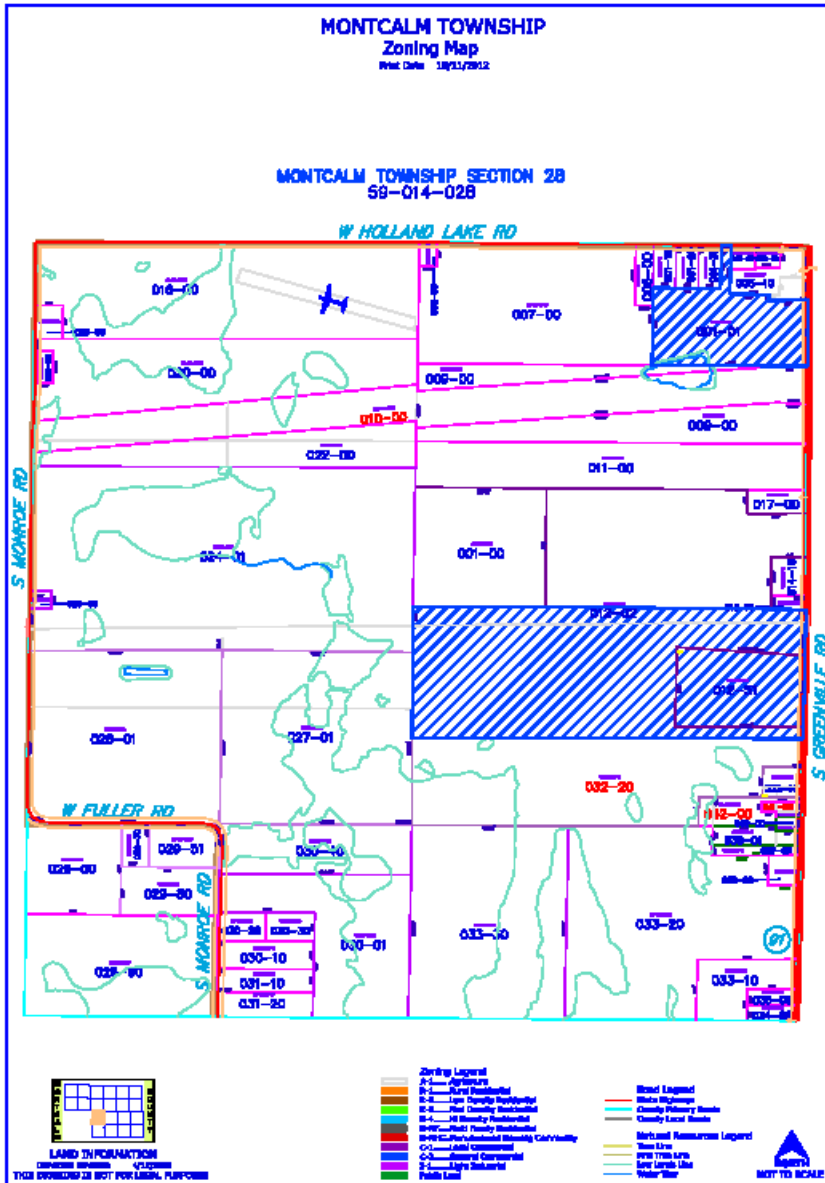




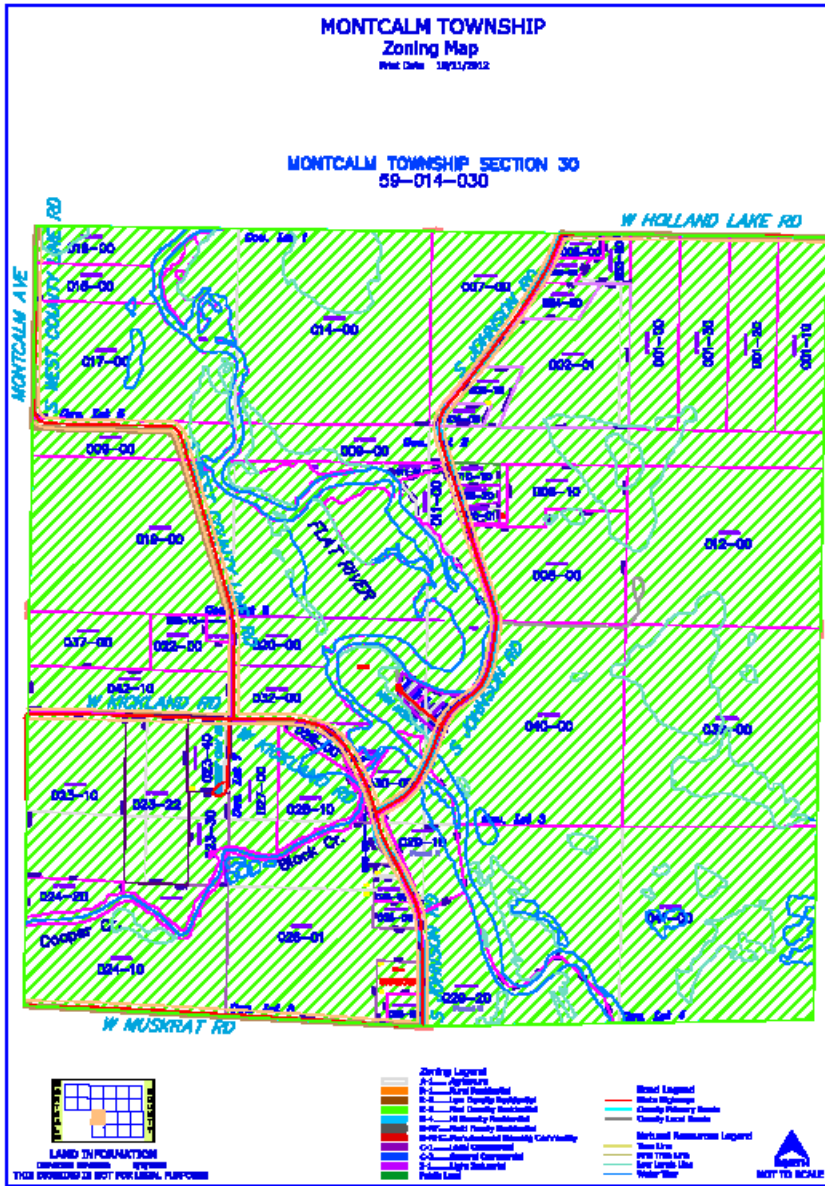
Montcalm Township Zoning Ordinance

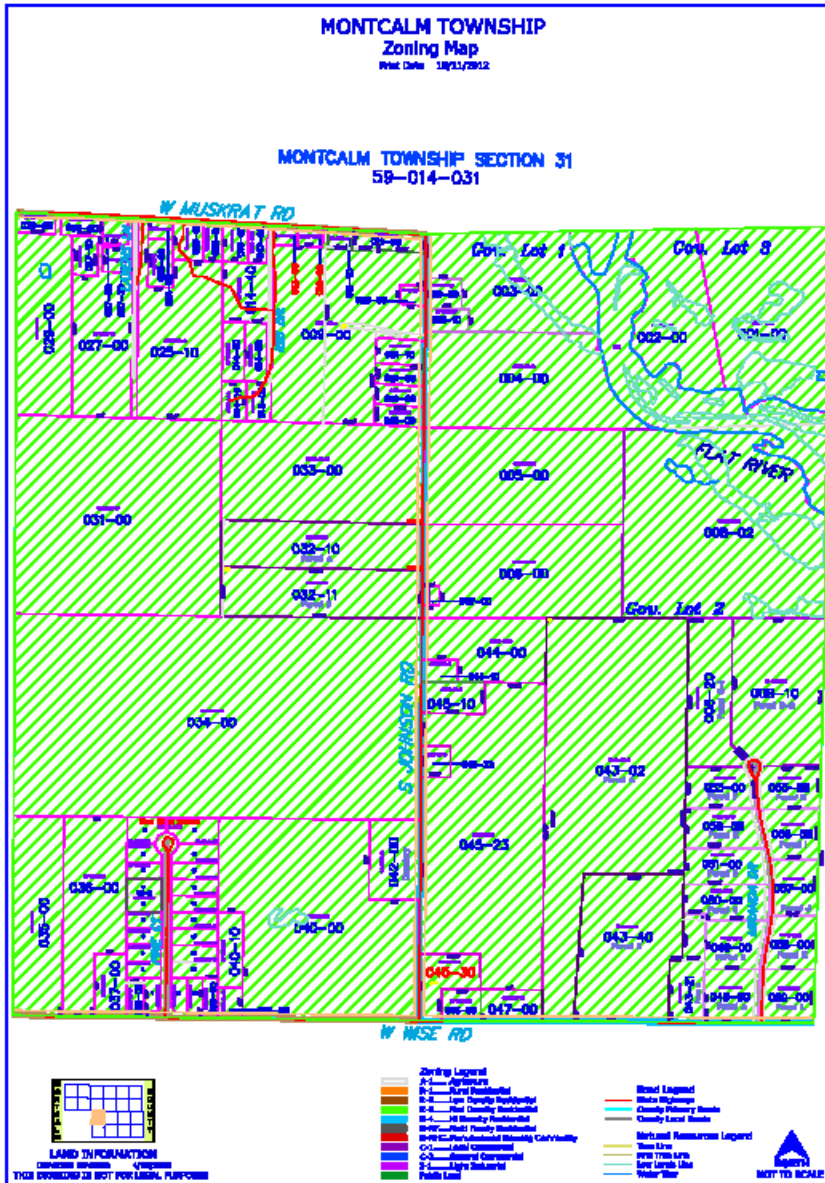


Montcalm Township Zoning Ordinance



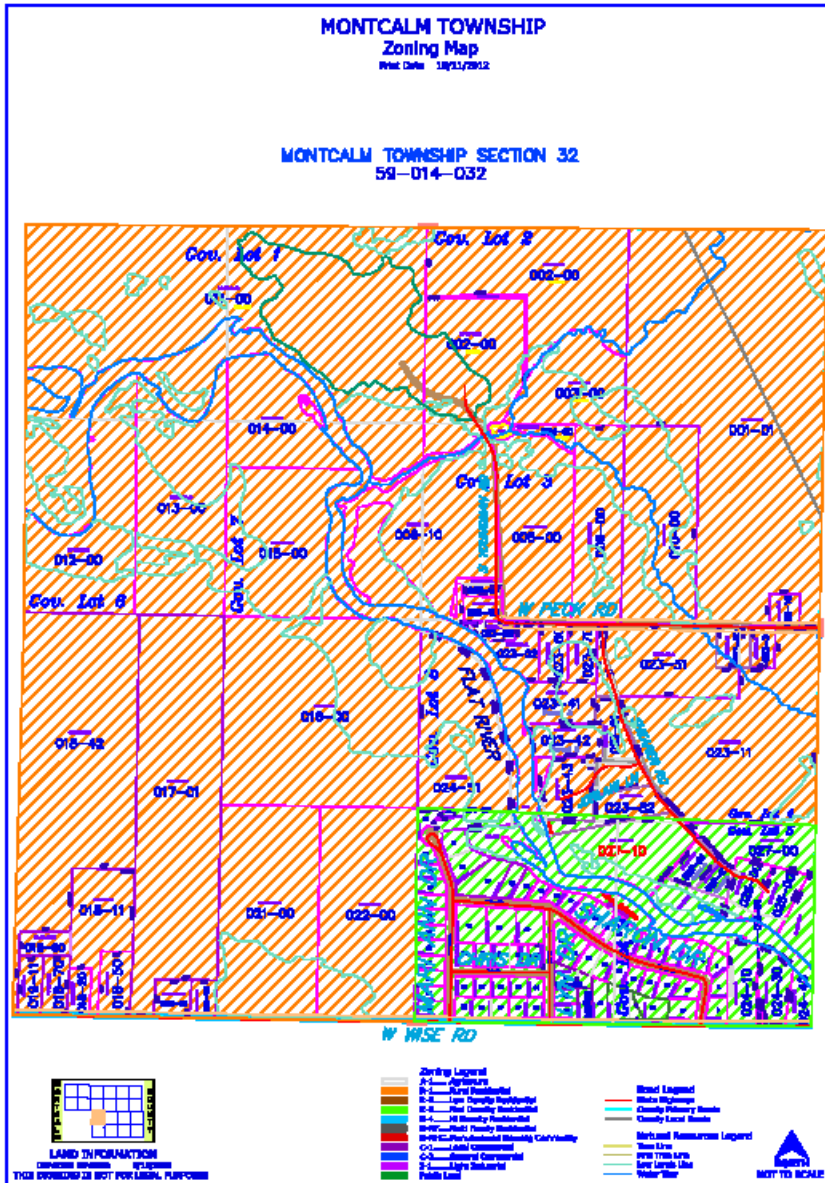


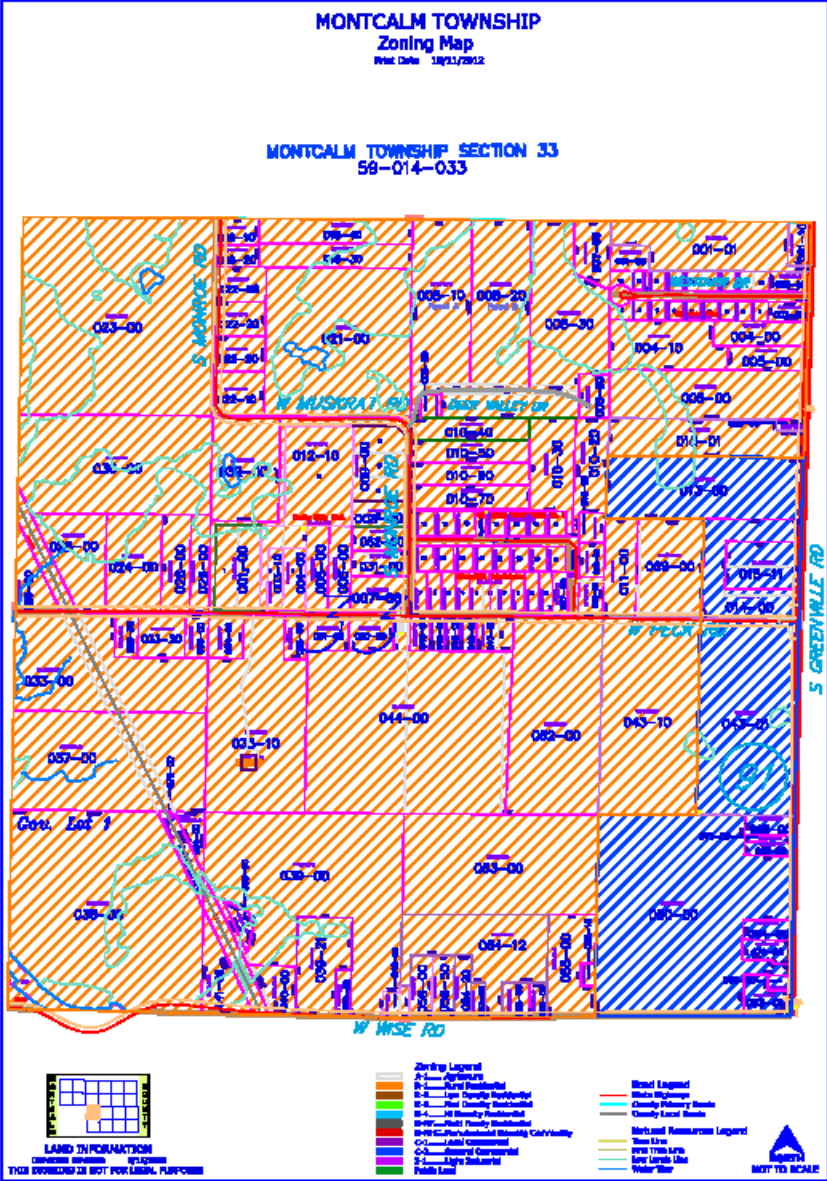






Montcalm Township Zoning Ordinance

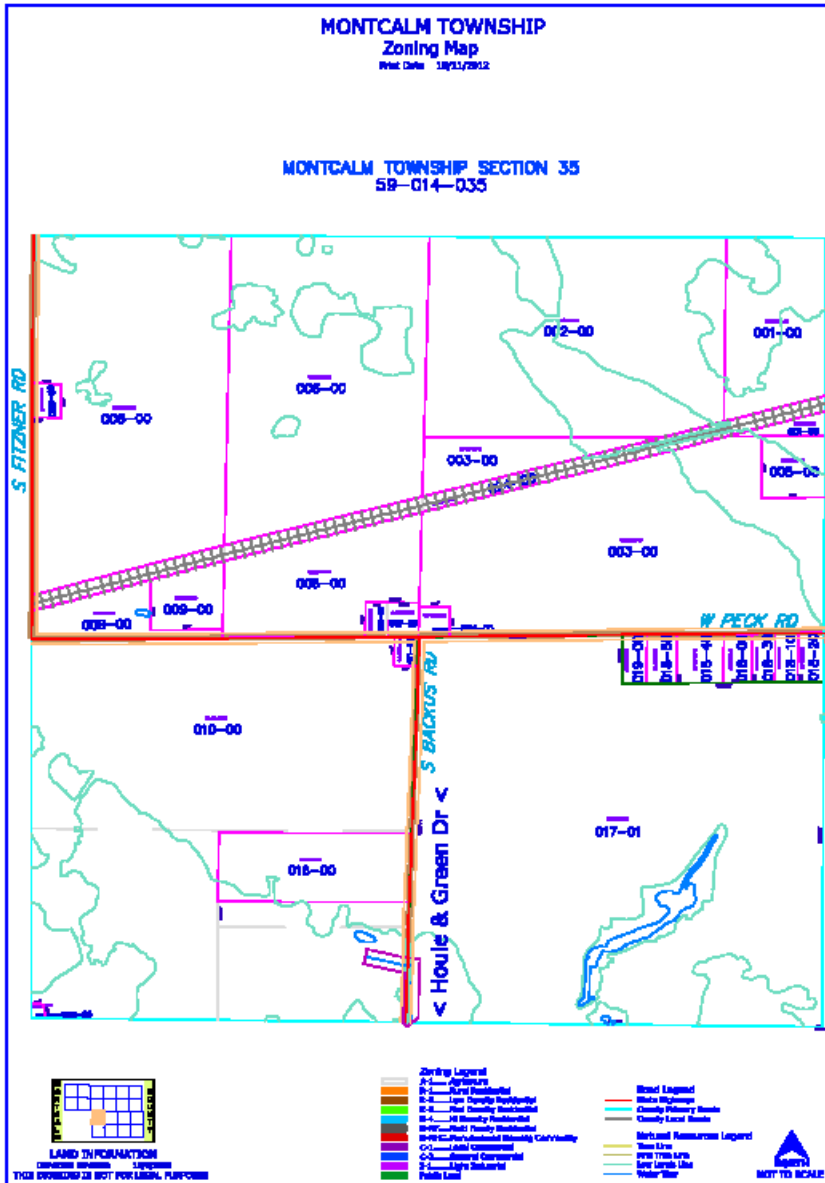








Montcalm Township Zoning Ordinance





**COMMERCIAL ZONED PARCELS**

PROPERTIES LISTED BY PARCEL NUMBER AS SHOWN ON ZONING MAP

014-033-063-00	014-033-066-00	014-033-060-00	014-033-070-00
014-033-064-00	014-033-067-00	014-033-065-00	014-033-071-00
014-033-043-01	014-033-014-00	014-033-015-11	014-033-013-00
014-034-035-50	014-034-035-10	014-034-035-00	014-034-033-00
014-034-034-00	014-034-032-00	014-034-031-00	014-034-030-00
014-034-027-10	014-034-027-01	014-034-026-00	014-034-025-30
014-034-024-20	014-034-024-30	014-034-020-50	014-034-022-00
014-034-021-00	014-034-020-00	014-034-019-00	014-034-023-00
014-034-018-00	014-034-017-00	014-034-009-00	014-034-015-00
014-034-010-90	014-034-014-10	014-034-014-20	014-034-010-60
014-034-010-40	014-034-010-53	014-034-010-52	014-034-010-51
014-025-008-10	014-025-008-03	014-027-022-10	014-027-019-01
014-027-022-01	014-028-012-51	014-028-001-01	014-007-012-00
014-108-001-00	014-104-013-00	014-590-006-00	014-028-017-00
014-009-054-00	014-016-005-00	014-016-003-10	014-016-004-00
014-009-025-00	014-700-015-10	014-700-013-00	014-700-011-00
014-700-019-00	014-700-008-00	014-700-006-10	014-009-040-00
014-009-043-00	014-009-042-00	014-009-009-00	014-009-033-00
014-009-030-00	014-004-025-00	014-004-004-00	014-009-012-00
014-009-051-01	014-009-051-10	014-009-047-01	014-009-041-00
014-009-040-50	014-009-049-00	014-009-053-00	014-009-050-00
014-009-045-01			

014-015-015-00 -- An area starting a SW corner of parcel East 350' then N 700' then W 350' to parcel line then South 700' to point of beginning. This portion of the parcel only.

014-028-012-02 -- South half of the parcel only

**LIGHT INDUSTRIAL PARCELS**

Montcalm Township Zoning Ordinance

014-034-038-40

014-034-038-10

014-034-038-20

014-034-016-00

014-034-016-00

014-034-016-50

014-034-004-00

014-034-006-00

014-034-005-30