

## ZONING ORDINANCES

AN ORDINANCE to establish zoning districts and provisions governing the unincorporated portion of Holton Township, Muskegon Co., Michigan, in accordance with the provisions of Act 110 of the Public Acts of 2006, as amended; to provide for the administration thereof; and to provide for a Board of Appeals.

### THE TOWNSHIP BOARD OF HOLTON TOWNSHIP ORDAINS:

#### **ARTICLE 1** ***PREAMBLE AND GENERAL PROVISIONS***

##### **Sec. 1.01 TITLE**

This Ordinance shall be known as the Holton Township Zoning Ordinance.

##### **Sec. 1.02 PURPOSE**

The fundamental purpose of this Ordinance shall be:

- To promote and preserve the health, safety, and general welfare of the inhabitants of the township;
- To encourage the use of lands and resources of the township in accordance with their character and adaptability;
- To provide for the wholesale and orderly development of the township;
- To reduce hazards to life and property;
- To provide, in the interests of health and safety, standards under which buildings and structures may hereafter be erected and used;
- To facilitate the development of an adequate system of transportation, education, recreation, sewage disposal, safe and adequate water supply, and other public requirements;
- To conserve life, property and natural resources, and the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties.

##### **Sec. 1.03 EXISTING USES OF LAND AND BUILDINGS**

The lawful use of any dwelling, building or structure, and of land or premises as existing and lawful at the time of enactment of this Ordinance may be continued at the discretion of the owner thereof even though such use does not conform with the provisions of this Ordinance.

##### **Sec. 1.04 GENERAL PROVISIONS**

1.04A Purpose: The purpose of these provisions is described by the following sections.

1.04B Zoning Affects Every Structure and Use:

Except as hereinafter specified, no building, structure or premises shall hereafter be used or occupied and no building or part thereof or other structure shall be erected, raised, moved, reconstructed, extended, enlarged, or altered, except in conformity with the regulations specified for the district in which it is located.

1.04C Restoring Unsafe Buildings:

The provisions of the 1997 Uniform Code for the Abatement of Dangerous Buildings, as amended, shall apply.

1.04D Required Area or Space Cannot Be Reduced:

No lot, yard, dwelling size or parking area shall be reduced in area or dimension to less than the minimum required under this Ordinance. If already less than the minimum required under this Ordinance, said area or dimension shall not be further reduced. However, 2 or more non-conforming lots may be combined to produce a lot in conformity.

1.04E Reserved for Future Use:

1.04F Conversion of Dwellings:

The conversion of any building to a dwelling or the conversion of any dwelling so as to accommodate an increased number of dwelling units or family units shall be permitted only under rules set forth in Article Thirteen, "Supplementary Provisions," Sec.13.06, *et. seq.*, that pertain to special use permits.

1.04G Building Moved:

No building, structure or dwelling/titled dwelling which has been wholly or partially erected on any premises located within or outside the Township of Holton shall be moved to or placed upon any other premises in this Township without inspections by Holton Township and full conformance to all provisions of this Ordinance in the same manner as a new building. Any person desiring to move a building to a location within the Township limits shall file a written application with the Building Official and shall have the structure inspected at owner's expense by the Building Inspector before moving it into or within the Township. The permit shall state the streets or alleys along which the move shall be made. No buildings or dwellings or other structure shall be moved into the Township of Holton or from one location to another unless the buildings complies with the district requirement; including size and other dimensional requirements. The owner or contractor shall cause written notice thereof to be given the concerned utilities companies, and others whose property may be affected by such move. Owners, contractors or licensed movers shall show proof of insurance of an amount as determined by the authorized official prior to the move. No building permit or fee shall be required for accessory buildings or structures with less than 200 square feet of area.

1.04H Health Hazards:

No building permits shall be issued on land where the County Health Officer has certified that because of topographic or drainage conditions the land will not support a domestic water and/or sewer system and no public water system is available.

1.04I Access:

No building permit shall be issued unless there is a permanent exclusive non-obstructed easement or right-of-way to an existing county, state, or local roadway approved, improved, and maintained by the county road commission. This easement shall be sixty-six feet (66) feet in width and shall grant a right-of-way to all abutting owners and to public vehicles and/or utilities.

1.04J Housing Capacity:

No dwelling in any district, regardless of the number of families housed therein, shall be occupied so that there will be at any time an average of regular residents in excess of three (3) persons per bedroom or eight (8) persons per three piece bath.

1.04K Temporary Dwelling Structure:

No temporary dwelling, whether of a fixed or movable nature, may be erected, altered or moved upon any lot or parcel of land in the township and used in whole or in part for dwelling purposes unless a written request in first made to the Zoning Administrator requesting to use a temporary dwelling for a specific stated purpose. In deciding upon the request, the Zoning Administrator shall consider the following:

1. Location: The location of each temporary dwelling shall not be injurious or obnoxious to adjacent lands or the surrounding neighborhood.
2. Water Supply & Sanitary Facilities: The water supply and sanitary facilities serving each temporary dwelling shall conform to all applicable requirements of the Michigan Health Department, Muskegon County Health Department, the Township building, electrical and plumbing codes for the use of the temporary dwelling.
3. Granting Authorization: In granting the authorization for such use the Zoning Administrator shall consider the following standards:
  - a. The reason and necessity for the temporary dwelling structure.
  - b. The size and condition of the temporary dwelling structure.
  - c. The proposed location of the temporary dwelling structure.
  - d. The effect of the temporary dwelling structure on adjoining lands and the surrounding neighborhood.
  - e. The Township Board shall require a cash deposit, certified check, bond or other financial guarantee of not less than two thousand dollars (\$2,000.00) conditioned upon the removal of the temporary dwelling structure from the premises within the agreed upon time limit.
  - f. The temporary dwelling structure may be used as a residence for a period not to exceed one (1) year, unless a time extension of up to 180 days is granted by the Zoning Administrator provided that the ability and intent to erect a permanent dwelling on the premises is shown by:
    - 1) Zoning, building and other applicable permits have been issued for the permanent building
    - 2) On-site sewer system permit has been granted by Muskegon County Health Department for the temporary and permanent dwelling.
4. Once the new or rebuilt house or dwelling has been completed, the temporary dwelling must be completely removed from the lot or parcel within 45 days of the issuance of a Certificate of Occupancy. The temporary dwelling unit shall be fully removed from the property involved prior to the date of expiration of the temporary dwelling permit and shall be removed in compliance with the provisions of this Ordinance, prior to the bond, cash deposit, certified check and or other financial

guarantee being returned to the applicant. Failure to comply will void the temporary dwelling permit and invoke forfeiture of financial guarantee.

1.04L Travel Trailers or Recreational Vehicles:

The use of travel trailers or recreational vehicles shall provide that:

1. No person shall use any travel trailer or recreational vehicle outside of a licensed mobile home park or trailer coach park for camping purposes except provided in this Ordinance. Such uses shall be limited to thirty (30) days cumulative use in a calendar year in residential districts where such use is on a lot on which there is located a permanent occupied dwelling or one hundred-five (105) days cumulative use in a calendar year on lots located in a Forest-Recreational, Agriculture or Rural Living Districts where there is not a permanent occupied dwelling on the parcel. In the case of the Agriculture District, where there is a permanent occupied dwelling, the use will be allowed up to one hundred-five (105) days cumulative in a calendar year.
2. Travel trailers and recreational vehicles, when located outside of State licensed trailer coach parks, shall be removed from all lots during periods in which they are not being used for camping or recreational purposes and are otherwise unoccupied except where the unoccupied travel trailer or recreational vehicle is stored on property where the owner's principal residence is located.
3. Each occupied travel trailer or recreational vehicle shall be self-contained. No waste water from travel trailers, recreational vehicles or any other sources shall be deposited on the surface of the ground, in surface waters, or underground in the Township and all such vehicle owners and users shall specifically act in accordance with all rules and regulations of the Muskegon County Health Department and all other laws of the State of Michigan.

1.04M Subterranean or Underground or Below Ground Dwellings:

No subterranean, underground or below ground dwellings may be constructed unless it complies with the following provisions:

1. It shall meet all zoning, building, county and State Health Code requirements.
2. The structural design shall be certified by a registered architect or engineer.
3. The roof structure and truss work must be designed and certified by a registered architect or engineer.
4. Yard dimensions shall exclude any portion of ground which is covering a portion of the dwelling.
5. No land use permit shall be issued where, in the opinion of the Building Inspector, such site is unsuitable due to a reasonable danger of flooding from surface or subterranean sources or is likely to be situated on a site which has a reasonable likelihood of erosion.

1.04N Outside Toilets:

No outside toilet or privy vault shall be constructed on any premises in any location where the same might contaminate a water supply or is in contrary to the orders of the State or County Board of Health.

1.04O Reserved for Future Use

1.04P Uninhabitable Dwellings:

The provisions of the 1997 Uniform Code for the Abatement of Dangerous Buildings, as amended, shall apply.

1.04Q Building Permits Withheld:

From and after the effective date of this Ordinance no building permit shall be issued when:

1. The supervisor certifies to the Building Inspector that the parcel for which a permit is required is part of an area subdivided in violation of the Plat Act.
2. The applicant fails to produce evidence that the County Health Officer certifies the land will support a domestic water and/or sewer system.
3. The property for which a permit is required does not front or abut for a minimum of sixty-six (66) feet on an approved street or a permanent exclusive non-obstructed easement of access or right-of-way to a street not less than sixty-six (66) feet in width.

1.04R Reserved for Future Use

1.04S Filling of Land:

No use of land for filling with off-site sand, gravel, cinders, industrial waste or any materials of any form or nature shall be allowed without a "SPECIAL USE PERMIT," Sec.13.06, *et. seq.*, issued by the Planning Commission.

1. Application. Every application for a "SPECIAL USE PERMIT," Sec.13.06, *et. seq.*, to fill shall be
  - a. Accompanied by a specification sheet showing the grade level proposed for the fill, a statement as to the materials to be used, the period of time over which the fill will be brought in and the contour of the lot after the proposed fill is completed. The application will be made in writing to the Planning Commission.
2. Permit to Fill. The Planning Commission will issue the permit to fill land, after they have determined:
  - a. That such filling will not cause surface water to collect or to run off into adjoining lands contrary to normal and natural drainage.
  - b. That such fill material will not unreasonably be blowing dust, grime, fumes or odors.
  - c. That such fill will not decay or rot in such manner as to cause holes or soft areas to develop in the lands so filled.
  - d. That, upon completion of such fill, the property will be left in such a condition that it may be properly used for the use designated for the area in the Zoning Ordinance and maps.
  - e. That such fill shall not operate to inhibit light and air to the adjoining properties.
  - f. That such fill operations will not be conducted before sunrise or after 8:00 P.M., local time.
  - g. That transportation of such fill material will be made in trucks or vehicles properly suited to such transport so that it will not be spread upon the highways and roads to the Township.
  - h. That such fill shall not cause any hazard of fire and that combustible materials shall not become any part of the fill material.
  - i. That fill will be carried out under the terms and conditions above set forth, and that the Planning Commission may, if concerned about the applicants fulfilling the above conditions, require a performance bond in favor of the township and conditioned upon the applicant faithfully carrying out all of the terms and conditions of the permit.

- j. That the area to be filled does not include or is adjacent to a wetland as defined by the Michigan Department of Natural Resources:

1.04T Access to all Dwelling Sites for Fire Protection:

1. Pine tree grove plantings be a minimum of fifty (50) feet from any dwelling.
2. Private driveways for area dwellings to any public roadway shall be cleared or unobstructed for a minimum width of twenty (20) feet.
3. Trees shall be so trimmed overhead as to provide an eleven (11) foot high vertical clearance for a private roadway.
4. All driveway curves shall be not less than a twenty (20) foot radius at any curve.
5. All private driveways including any bridge crossings shall be subject to investigation by the Building Inspector and the Fire Department before a building permit is issued for dwelling construction and each permit issued is to be handled on a case to case basis.

1.04U Accessory Structure and Use:

1. A structure subordinate to the principal permitted use of the land or a building on the same lot and serving a purpose customarily incidental and subordinate to the principal structure or use of the land. No accessory structure shall be built on a lot in Residential Districts R-1, R-2, R-3 and R-4 where a principal permitted structure is not first located, or permits secured for such a structure.
  - a. Private Garage: Garages may be constructed in the front yard only if an integral part of the principal structure and shall be built with materials using a design which will be compatible with the principal structure and meet all other requirements of the Holton Township Ordinances. Structures attached to a breezeway or other structure are considered an integral part of the principal structure.
  - b. Home-Use Greenhouses, Sun Spaces, Solar Heat and Power Installations: Structures considered an integral part of the principal structure shall be subject to all regulations of this Ordinance applicable to the principal structure.
  - c. Pet and Animal Shelters: Structures for housing small pets or farm animals where allowed under the Holton Township Ordinance.
2. Detached structures shall be erected only in the side and rear yard. No detached structures shall be closer than ten (10) feet to the principal structure.
3. An accessory structure, whether an integral part of the principal structure or detached, shall meet all requirements contained in the "ARTICLE", "TABLE OF STANDARDS FOR BUILDING AND LOT SIZE" regarding maximum height of buildings, minimum yard setback and maximum yard coverage.
4. "In Residential Districts R1, R2, R3 and R4 an accessory structure may be located upon adjacent or adjoining lot separate and distinct from that lot which contains the principal dwelling or structure under the same ownership".

1.04V Non-Conforming Uses, Lots and Structures:

1. Intent: It is the intent of this Ordinance to permit legal non-conforming lots, structures or uses to continue until they are brought into conformity, removed, extinguished or forfeited, but not to encourage their continuation.
2. Substandard Lots of Record: Any lot in a Residential District in single ownership which was of record at the time of the adoption of this Ordinance that does not meet the requirements of this Ordinance for lot area, may be utilized for uses permitted under this Ordinance. If already less than the minimum required lot area, no lot shall be further divided or reduced. However, this shall not prevent 2 or more non-conforming lots from being combined to produce a lot in conformity.
3. Non-Conforming Uses of Land: Where, on the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made unlawful under the terms of this Ordinance as enacted or amended, such may be continued, so long as it remains otherwise lawful, subject to the following provisions:
  - a. No such non-conforming use shall be enlarged or increased, or extended to occupy a greater area of land that was occupied at the effective date of the adoption or amendment of this Ordinance. Also, no non-conforming use shall be changed to another non-conforming use.
  - b. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance
  - c. If such non-conforming use of land ceases for any reason for a period of more than three (3) consecutive months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
  - d. Notwithstanding the other provisions contained in this Article, when a residence is classified as non-conforming, alterations, repairs and additions, including accessory buildings, as determined by the Zoning Official, does not exceed fifty (50) percent of the appraised value of the non-conforming residence, cumulative from the date non-conforming to the date of request. Also provided that by addition, such additions and accessory buildings shall meet the maximum percentage of lot coverage.
4. Non-Conforming Uses of Structures and Land: If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be permitted in the district under the terms of this Ordinance, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:
  - a. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located.
  - b. When a non-conforming use of a structure, or structures and land in combination, is discontinued or ceased to exist for three (3) months, the structure or structures and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
  - c. When non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.
5. Repair and Maintenance of the Non-Conforming Structures or Buildings: Such repairs and maintenance work as required to keep it in sound condition may be made to a non-conforming building or structure, provided that no structural alterations shall be made in such building or structure which, during its life subsequent to the date of its becoming non-conforming, exceed fifty (50) percent of its assessed value for tax purposes at such date unless it changes to a conforming structure.

1.04W Environmental Provisions:

1. Setbacks of Structures and Sewage Systems for Bodies of Water:

a. Building Setbacks From Skeels Creek and Their Tributaries:

- 1) New buildings and accessory buildings shall be set back one hundred fifty (150) feet from the water's edge along creeks and their tributaries.
- 2) Exception: On the mainstream, for every foot of vertical bank height above a minimum of three (3) feet from the normal creek flow, new structures can be placed five (5) feet closer to the creek, to a maximum of fifty (50) feet from the top of any bluff on the cutting edge of the mainstream and its tributaries.

b. Building Setbacks from Other Water Bodies:

- 1) No structure for human occupancy shall be located less than one-hundred fifty (150) feet from the normal high water level as set by the Department of Natural Resources.
- 2) Exception: For every foot of vertical bank height above a minimum of three (3) feet above normal high water level, new structures can be placed five (5) feet closer to a maximum of fifty (50) feet.

c. Building Setbacks From Cedar Creek and Their Tributaries:

- 1) New buildings and accessory buildings shall be set back one hundred (100) feet from the water's edge along creeks and their tributaries.
- 2) Exception: On the mainstream, for every foot of vertical bank height above a minimum of three (3) feet from the normal creek flow, new structures can be placed five (5) feet closer to the creek, to a maximum of fifty (50) feet from the top of any bluff on the cutting edge of the mainstream and its tributaries.

d. Setback of Septic Tank Systems from Water Bodies:

- 1) Septic tanks and absorption fields shall be located at least one hundred fifty (150) feet from the water's edge and the bottom of the absorption field shall be at least four (4) feet above the high water table.
- 2) For every foot of vertical bank height a minimum of three feet above normal high water level, new structures can be placed five feet closer, to a maximum of 50 feet.
- 3) No land shall be used for the installation of a private sewage system when the land is held unsuitable for such reason of flooding, concentrated runoff, inadequate drainage adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, well-being and general welfare of this community or injurious to other property in the neighborhood area.
- 4) The Township Building Inspector, in applying the provisions of this section shall, in writing, recite the particular facts upon which conclusions are based that the land is not



suitable for a sewage unit.

- 5) The applicant shall have recourse to the township Zoning Board of Appeals to appeal the Building Inspector's findings and to present evidence contesting such unsuitability if he/she so desires.
- 6) All earth changing activities, other than normal landscaping or maintenance, undertaken within the district must be conducted in accordance with the requirements of Act 347 of the Public Acts of 1972, its administrative rules, and those procedures established by the local enforcing agency.
- 7) Cutting or filling for building, including appurtenances, on the floodplain, and filling for building in the upland within the district, where the highest groundwater table is within 6 feet of the surface, shall be prohibited. Dredging or filling for the construction of fish or wildlife ponds within the district requires a permit under Acts 346 and 347 of the Public Acts of 1972.

1.04X Drainage Courses - Floodplain:

1. No structure may be built in such drainage courses or flood plains where high water exists periodically or continually.
2. Such courses shall not be altered or changed in any way unless the land-owner first obtains a "SITE PLAN" approval from the Planning Commission. In addition to the requirements of this section, the Planning Commission may use the requirements of "SPECIAL USE PERMIT," Sec.13.06, *et. seq.*, as a guide in their determination.
3. The Planning Commission shall ensure that the construction will not:
  - a. Impede the flow of water, or cause poundings;
  - b. Cause erosion;
  - c. Cause loss of flooding water back-up space;
  - d. Cause diversion of the course of water from the applicant's property to another location;
  - e. Cause water back-up to public road ditches, or other private property;
  - f. Cause loss of flood-impeding capacity;
  - g. Cause loss of area for effluent cleaning; and
  - h. Cause increased pollution of adverse effect to mainstreams or other bodies of water.
4. Such approval shall not be necessary for landscaping, stabilization, terracing of embankments, construction of a foot bridge across such courses, and the drawing of such drainage course to create artificial ponds; if, in the opinion of the Planning Commission, such proposed activity will not reduce the capacity of the course to fulfill its natural function or effect property up or downstream and all appropriate permits for this diversion of water to be obtained from applicable agencies.
5. Any building providing yard space or otherwise not occupying the entire lot upon which it is situated shall be located at such an elevation that a sloping grade shall be maintained to cause the flow of surface water to run away from the wall of the building. When a new building is constructed on a vacant lot between two existing buildings or adjacent to an existing building, the existing established grade shall be used in determining the grade around the new building and the yard around the new building shall be graded in such manner as to meet existing grades and not to permit run-off on the surface water to flow onto the adjacent properties.

1.04Y Natural Vegetation Strip Along Cedar, Skeels Creek and Their Tributaries and Other Bodies of Water:

Except for Agricultural zoned land (which shall conform to current Soil Conservation District standards), a natural vegetative strip fifty (50) feet wide bordering each side of the designated portion of the mainstream, the tributaries, and the bodies of water shall be maintained in trees, shrubs and other vegetation native to the area subject to the following provisions:

1. Dead, diseased, unsafe or fallen trees and noxious weeds, shrubs may be removed.
2. Trees and shrubs may be pruned to afford a view of the creeks, their tributaries and other bodies of water.
3. Clear cutting will not be allowed into the fifty (50) foot vegetative strip; however, selective removal of trees for commercial timber harvest or landscaping shall be permitted upon approval of the Planning Commission. All banks shall be restored to original condition to prevent erosion.

1.04Z Fences, Screens, Buffers:

1. Fences, screens and buffers may be constructed as either perimeter enclosure for the entire parcel of land, or be used as specific enclosures for specific reasons on a portion within the parcel of land. They may be constructed of, but not limited to, natural growing materials as trees, shrubs, natural topography; constructed, grassed and landscaped mounds of dirt/stones known as berm; fences and walls of such materials as are compatible with the construction of the primary and/or accessory structures on the parcel of land as well as the materials and construction of neighboring land parcels. Fences and walls may be made of wood, wire, brick and/or stone. Nuisance fences, which shall not be used are those constructed of tires, pallets, and other discarded materials as determined by the Ordinance Enforcer. Any fence and wall not in keeping with the aesthetic value of the primary or accessory structures as well as the aesthetic value of the materials of construction of neighboring parcels shall be prohibited. Any question as the aesthetic value or nuisance shall have the determination made by the Ordinance Enforcer.
2. At any intersection of public or private roads, no solid fence, structure, walls, shrubs, trees or any other plants shall be permitted within twenty (20) feet of the right of way lines of the public highway which will obstruct the view of the users of the highways which are greater in height than twenty-four (24) inches.

1.04aa Home Occupations:

1. Intent. It is the intent of this section to provide regulations controlling accessory uses conducted entirely within a dwelling and carried on by inhabitants thereof.
2. General Requirements:
  - a. The non-residential use shall be only incidental to the primary use.
  - b. The home occupation shall utilize no more than twenty-five (25) percent of the floor area of one story.
  - c. No equipment or process shall be used in such home occupation which creates excessive noise, vibration, glare, fumes, odors, or electrical interference; no equipment or process shall be used

which creates visual or audible interference in any radio or television receivers off the premises.

- d. All activities related to the home occupation shall be carried on indoors, only in the principal building. No outdoor activities shall be permitted without a "SPECIAL USE PERMIT," Sec.13.06, *et. seq.*
- e. There shall be no change in the exterior appearance of the building or premises; or other visible evidence of the conduct of such occupation other than one announcement sign, not exceeding two square feet in area, non-illuminated, and mounted flat against the wall of the principal building.
- f. No traffic shall be generated by such home occupation other than would normally be expected in a residential neighborhood, and need for parking generated by the conduct of such home occupation shall be met off the street and other than in required front yard.
- g. That no articles be offered for sale on the premises unless produced on the premises or are accessory to goods produced or services rendered on the premises.

1.04bb Standards for Single Family Dwellings:

- 1. When a dwelling is required by law to comply with any federal or state standards or regulations for construction that is different than those imposed by the Township Construction Code, then and in that event, such federal and state standard or regulation shall apply.
- 2. All dwellings shall be firmly attached to a permanent foundation constructed on the site in accordance with the applicable Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, such dwelling be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required as above.
- 3. In the event that a dwelling is a mobile home, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
- 4. The dwelling is to be connected to a public sewer and water supply or to such private facilities approved by the local health department before occupancy is granted.
- 5. The dwelling may contain a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling; however, prefabricated metal or wood buildings shall be considered appropriate when storage area shall be equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
- 6. The dwelling is to be built with design and materials which are commonly acceptable in the housing industry, with either a roof overhang of not less than six (6) inches on all sides, or alternately, with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors, with the second being in either the rear or side of the dwelling; and contains steps connected to said exterior door areas or to porches connected to said door in areas where a difference in elevation requires the same.

7. All additions to any dwelling shall comply with applicable building standards. Where a dwelling is a mobile home, additions shall be factory built or constructed of material to match the principal dwelling.
8. The dwelling shall comply with all pertinent state and local building, electrical, plumbing, and mechanical and fire codes and shall meet or exceed all applicable roof snow load and strength requirements. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within the mobile home shall be a type and quality conforming to the "MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended.
9. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the Ordinance of the Township pertaining to such parks.
10. All dwellings shall have a minimum foundation width of twenty (20) feet throughout the full length of the structure.

#### 1.04cc Design Standards for Group Day Care Homes

1. A group day care home shall not be closer than 1500 feet to: another licensed group day care home; another adult foster care small or large group home licensed under the adult foster care licensing act, PA 218 of 1979 as amended; a facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, PA 368 of 1978 as amended; a community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
2. The outdoor play area shall not be located within the required front yard setback area and shall be the minimum area required by state law.
3. All outdoor play areas shall be enclosed by a fence that is at least 48 inches high and complies with the applicable regulations for fences as required by this Zoning Ordinance.
4. One off-street parking space shall be provided for each non-family employee of the group day care home in addition to parking normally required for the residence. A driveway may be used to fulfill this requirement.
5. Hours of operation shall not exceed 16-hours in a 24-hour period, and activity pertaining to the day care operation shall be limited between the hours of 10:00 pm and 6:00 am.
6. Child day care homes shall only be permitted in a safe environment. Such environment, both on the premises and adjacent to such property, shall be free from nuisance or hazardous conditions that would place children's health or safety at risk. Such conditions might include but are not limited to bodies of water, unacceptable exposure to traffic, noise, air contaminants, vibration, explosive materials, or similar conditions and activities.
7. As a condition of approval, the Planning Commission may require conditions or site improvements as necessary to ensure the health and safety of children.
8. Child day care homes shall not result in a detrimental change to the essential residential character of

the neighborhood in which it is to be located, nor shall it result in an unreasonable nuisance condition to residents of the neighborhood in which it is to be located. In determining whether potential for an unreasonable nuisance situation exists, the Planning Commission shall evaluate the following factors:

- a. Traffic volumes to be generated into the neighborhood once the group day care home is in operation
- b. Adequacy of parking or drop-off sites
- c. Presence of other child day care homes or similar uses in the immediate area, and any complaints on record regarding the same uses

Sec.1.04dd Certification of Clerk

Holton Township Clerk Melanie Johnson April 8, 2003  
Introduced April 8, 2003  
Adopted April 8, 2003  
Effective April 15, 2003  
Published April 23, 2003

Amended Ordinance 2014-1 Certification of Clerk

Holton Township Clerk Melanie Johnson August 26, 2014  
Introduced August 12, 2014  
Adopted August 12, 2014  
Effective August 26, 2014  
Published August 26, 2014

## **ARTICLE 2**

### **ZONING DISTRICTS**

#### **Sec. 2.01 CLASSIFICATION OF ZONING DISTRICTS**

To achieve the aims and purposes set forth in the Preamble, the area of Holton Township is hereby divided into the following Zoning Districts, the location of which are shown on the accompanying Zoning:

- Map of the township:
- High Density Residential, R-1
- Medium/High Density Cluster Residential, R-2
- Medium Density Cluster Residential, R-3
- Rural, R-4
- Agriculture, A-1
- Forest/Recreational, FR
- Commercial, C-1 and C-2 Downtown District
- Industrial, IP
- Mobile Home Park Overlay Zone

#### **Sec. 2.02 BOUNDARIES OF ZONING DISTRICTS**

Unless otherwise designated, the boundary lines of zoning districts shall be interpreted as following section, eighth section, plat, and subdivision lines; or property lines on legal record on the date of enactment of this Ordinance; or the centerline of highways and waterways; or the shorelines of water bodies. All questions concerning the exact location of boundary lines of any district shall be determined by the Zoning Board of Appeals consistent with the purpose of this Ordinance.

#### **Sec. 2.03 TABLE OF STANDARDS**

Requirements	R-1	R-2*	R-3*	R-4	A--1	Fr/Rec.	C-1	ID
Min. Lot Size	17,424sf	43,560sf	3 acres	6 acres	See Text	24,750sf	24,750sf	2 acres
Min. Lot Width	132 ft.	165 ft.	264 ft.	330 ft.	264 ft.	440 ft.	165ft[150ft deep]	330 ft.
Max. Depth/Width Ratio	2.5:1	2.5:1	2.5:1	4:1	1.25:1	3:1	NA	NA
Max. Lot Coverage	12.00%	12.00%	7.50%	7.50%	7.50%	7.50%	NA	NA
Front Yard Min.	40 ft.	40 ft.	40 ft.	40 ft.	40 ft.	40 ft.	60 ft.	60 ft.
Side Yard Min.	16 ft.	16 ft.	16 ft.	16 ft.	16 ft.	16 ft.	See Text	See Text
Rear Yard Min.	16 ft.	16 ft.	16 ft.	16 ft.	16 ft.	16 ft.	20 ft.	20 ft.
Min. Living Space for Dwelling	1,000sf	860sf	1,200sf	1,400sf	860sf	1400sf	NA	NA

Section 2.03 Table of standards for Building and Lot Sizes

- \*Requirements in table are for Standard Zoning only, not cluster type development, which are subject to Planning Commission review. In addition, there may be other requirements, or review procedures not stated here. See Text. [C-2 See Text]

## **ARTICLE 3**

### ***HIGH DENSITY RESIDENTIAL, R-1***

The following provisions shall apply to all High Density Residential Districts, R-1;

#### **Sec. 3.01 PURPOSE**

The purpose of designating these certain areas of township as High Density Residential Districts, R-1, is to recognize the current use of land in these districts as primarily residential in character. The R-1 District provides for those areas where single family residences of limited lot areas currently exist, and limited expansion of those areas where conditions are suitable. It is intended to provide areas protected under this Ordinance as residential living areas free from incompatible uses and to assure adequate light and yard areas.

#### **Sec. 3.02 USES**

No building or part thereof shall hereafter be erected, altered, used or occupied, and no land or premises used or occupied, in whole or in part, for other than one or more of the following specified uses, subject to the limitations found in this ordinance.

##### **Sec. 3.02A Primary Uses:**

1. Detached Single Family Residential development
2. Adult Day Care Home (**no more than 6 persons 18 years & over**)
3. Adult Foster Care Family Home (**not more than six adults**)
4. Family Day Care Home (**less than seven minor children**)

##### **Sec. 3.02B Uses by Special Permit, as provided by Section 13.06:**

1. Churches
2. Schools and other educational institutions
3. Township and county administrative and service buildings and structures
4. Two Family Dwellings.
5. Fire-control structures
6. Other uses similar in character to the above and not specifically listed

##### **Sec. 3.02C Accessory Uses:**

Accessory uses, buildings and structures customarily and clearly incidental to any Primary Use, or use by Special Permit, when located on the same premises as the principal building or use.

#### **Sec. 3.03 MINIMUM LAND REQUIREMENTS - DWELLINGS**

Every lot or premises upon which a dwelling is hereafter erected shall not be less than 17,424 square feet in area and have a width not less than 132 feet throughout its depth. In addition, dwellings are subject to maximum lot coverage of 12 percent.

#### **Sec. 3.04 MINIMUM YARD REQUIREMENTS**

##### **3.04A Front Yards:**



Every building hereafter erected shall be set back not less than forty feet from the highway right-of-way line or front lot line, as the case may be.

3.04B Side Yards:

Every lot or premises upon which a building is hereafter erected shall have open side yards on each side not less than sixteen feet in width, and no building or part thereof shall be erected within such side yards.

3.04C Rear Yards:

Every lot or premises upon which a building is hereafter erected shall have a rear yard not less than sixteen feet in depth between the rear line of the building and the rear lot line.

**Sec 3.05 LIVING SPACE OF DWELLINGS**

No dwelling hereafter erected shall provide less than 1,000 square feet of living space per family, exclusive of any area in any attached garage, open porch or other attached structure.

**ARTICLE 4**  
***MEDIMUM/HIGH DENSITY/CLUSTERED RESIDENTIAL R-2***

The following provisions shall apply to all Residential Districts, R-2:

**Sec. 4.01 PURPOSES**

The purpose of creating Medium/High Density/Clustered Residential Districts, R-2 is to provide areas primarily designed for a residential use consisting of dwellings for only one family or household group, each located on individual lots or premises, adequate in size to provide for safe water and sewage disposal facilities, reasonably spaced to diminish spread of fire, and set back from the public thoroughfare to facilitate safe exit from the entrance to the premises. In addition, however, this district is designed to promote the "clustering" of these newly developed residential units, so as to provide for the preservation of open space and natural resources.

The requirements are intended to protect and stabilize the basic qualities of each such district, and to provide suitable and safe conditions for family living. Since certain other uses are generally accepted as compatible with residential developments, if properly integrated, the inclusion of such uses is provided by "Special Permits".

**Sec. 4.02 USES**

No building or structure, or part thereof, shall hereafter be erected, altered, used or occupied, in whole or in part, for other than one or more of the following uses:

**4.02A Primary Uses:**

1. Detached single-family dwellings.
2. Adult Day Care Home (no more than 6 persons 18 years & over)
3. Adult Foster Care Family Home (not more than six adults)
4. Family Day Care Home (less than seven minor children)

**4.02B Uses by Special Permit, as provided in Sec. 13.06:**

1. Churches
2. School and other educational buildings
3. Offices and clinics of physicians and other professional persons, provided, that no equipment is used which will create electronic interference.
4. Two-family dwellings.
5. Township or county administrative and service buildings
6. Publicly owned parks and playgrounds
7. Planned Unit Development Cluster Subdivisions according to the requirements of Section 4.07 herein.
8. Adult Foster Care Large Group Home
9. Adult Foster Care Small Group Home
10. Group Day Care Home
11. \*Other uses similar in character to the above and not specifically listed.

\*Amended to Ordinance January 8, 2002, effective January 25, 2002.

4.02C Accessory Uses:

Accessory uses, buildings and structures customarily and clearly incidental for any Primary Use, or use by Special Permit

**Sec. 4.03 MINIMUM LAND REQUIREMENTS**

Every lot or premises upon which a building is hereafter erected shall be not less than 43,560 sq. ft. in area and have a width not less than 165' throughout its depth. In addition, each lot and the development overall shall have a maximum depth to width ratio of 2.5:1, and the maximum lot coverage shall be 12 percent.

**Sec. 4.04 MINIMUM YARD REQUIREMENTS**

4.04A Front Yards:

Every building hereafter erected shall be set back not less than 40 feet from the highway right-of-way line or front lot line, as the case may be.

4.04B Side Yards:

Every lot or premises upon which a building is hereafter erected shall have open side yards on each side not less than 16 feet in width, and no building or part thereof shall be erected within such side yard.

4.04C Rear Yards:

Every lot or premises upon which a building is hereafter erected shall have a rear yard of not less than 16 feet in depth between the rear line of the building and the rear lot line.

**Sec. 4.05 LIVING SPACE OF DWELLINGS**

No dwelling hereafter erected shall provide less than 860 square feet of living space per family, exclusive of any area in any attached garage, open porch or other accessory structure.

**Sec. 4.06 DIVISION OF LOTS IN RECORDED PLATS**

In addition to the requirements of Section 4.07 and the other provisions of this district, the division of a lot in a recorded plat is prohibited unless approved following application to the Planning Commission. The application shall be filed with the Township Clerk and shall state the reasons for the proposed division. No lot in a recorded plat shall be divided into more than four parts and the resulting lots shall be not less than less in area than permitted by statute. No building permit shall be issued, or any building construction commenced, unless the division has been approved by the Planning Commission and the suitability of the land for building sites has been approved by the County or District Health Department. The division of a lot resulting in a smaller area than prescribed herein may be permitted but only for the purpose of adding to the existing building site or sites. The application shall so state and shall be in affidavit form and shall contain a drawing showing the dimensions and description of each part of the lot as proposed for dividing. Approval of the division of a lot in a recorded plat shall be contingent on an agreement in writing by the applicant that any sales contract, deed or any other document presented for recording at the office of the county register of deeds shall be accompanied by a copy of the written approval of the Planning Commission and a copy of the drawing of the lot as approved for dividing. The county register of deeds shall not record a document involving the division of a lot in a recorded plat unless approved by a Planning Commission in compliance with the provisions of this ordinance

**Sec. 4.07 PLANNED UNIT DEVELOPMENT CLUSTER SUBDIVISIONS**

4.07A Purpose

The purpose of Planned Unit Development (PUD) Cluster Subdivision regulations is to encourage and allow more creative and innovative design of land development than is possible under district zoning regulations. PUD Cluster Subdivisions are intended to allow substantial flexibility in planning and designing development proposals. Ideally, this flexibility results in a development that contains more amenities through preservation of open space, rural views, and other natural and cultural resources. The result is ultimately a development that is more desirable than one produced in accordance with conventional zoning ordinance and subdivision controls.

#### 4.07B Permitted Uses, As allowed by Sections 4.02A and 4.02B

#### 4.07C Qualifying Conditions

1. Minimum PUD Area Size. In order to be eligible for consideration as a PUD Cluster Subdivision the area proposed for a PUD shall consist of a minimum of four contiguous acres.
2. Unified Control. The proposed development shall be under unified ownership or control, so that one person or entity has proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of single ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions indicating that the development will be completed in its entirety as approved.

#### Sec. 4.07D Development Requirements

The lot area, lot width, building height, setback, and yard requirements, general provisions, landscaping, signs, lighting and parking regulations and other development standards which would otherwise be applicable to the type of land use being requested for the PUD shall be determined by the Planning Commission in order to achieve the objectives of this Chapter. Criteria which shall be used in making these determinations shall include the following:

1. Number and type of dwelling units.
2. Type and amount of non-residential uses proposed.
3. Proximity and impact of the PUD on adjacent existing and future land uses.
4. Preservation of existing vegetation or other natural features on site.
5. Topography of the site.
6. Provision of public and or community water, sanitary sewer and storm sewer or approval of the Muskegon County Health Department for on-site well and septic systems.
7. Access for emergency vehicles to all buildings.
8. Provisions for pedestrian circulation, recreational amenities, and open space.

#### 4.07E Dedicated Open Space Requirements.

A PUD shall provide and maintain the following minimum amount of Dedicated Open Space in accordance with the standards of this Chapter:

1. A minimum of 20 percent of the gross site area shall be preserved as Dedicated Open Space.
2. Areas Not Considered Dedicated Open Space. The following land areas shall not be classified as Dedicated Open Space for the purposes of this Section:
  - a. The area within any public or private road easement or right-of way.

- b. Only fifty percent of the area of any existing floodplain, lakes, streams, other surface water bodies, wetlands and slopes which are 20% or greater shall be counted as Dedicated Open Space.
  - c. The area within a platted lot or site condominium lot.
  - d. Proposed detention and retention ponds.
  - e. Community drain fields if such areas are not completely underground.
3. Standards for Dedicated Open Space. The following standards shall apply to the Dedicated Open Space provided in the development:
- a. If the site contains a lake, stream, or other body of water, the Planning Commission may require a portion of the Dedicated Open Space to abut the body of water.
  - b. A portion of the Dedicated Open Space shall be located along the public road frontage abutting the site. The depth of this area shall be at least fifty (50) feet not including public road right-of-way, and this area shall be left in its natural condition or landscaped to preserve the rural view.
  - c. Open space areas shall be linked with any adjacent open spaces, public parks, bicycle paths or pedestrian path where practical.
  - d. Grading in the Dedicated Open Space shall be minimal, with the intent to preserve existing topography where practical.
  - e. Dedicated Open Space may consist of ball fields, tennis courts, children’s play area, swimming pools and related buildings, community buildings, and similar recreational facilities. These uses however shall not utilize more than 50 percent of the Dedicated Open Space.
  - f. The Dedicated Open Space shall be available and useable for all residents of the PUD, subject to reasonable rules.
  - g. The Dedicated Open space shall be designed to be used primarily by residents of the PUD but this shall not prohibit non-PUD residents from utilizing these accessory uses provided rules for such use are set forth in the Open Space Agreement required by Section 4.07E 4. Herein.

4. Guarantee of Dedicated Open Space. The applicant shall provide an open space preservation and maintenance agreement so stating that all Dedicated Open Space portions of the development shall be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in title to commitments made as part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the PUD plan, unless an amendment is approved by the Planning Commission. The residents of the PUD by virtue of an association or other similar entity shall at all times maintain an ownership interest in the Dedicated Open Space.

The agreement must be acceptable to the Planning Commission and may consist of a recorded deed restriction, covenants that run perpetually with the land or a conservation easement established according to the Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980 as amended.

The agreement 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 Dedicated Open Space, unless the Planning Commission approves a maintenance agreement by parties other than those who have an ownership interest.

3. Provide for scheduled maintenance of the Dedicated Open Space including necessary pruning, mowing, replacement of dead or diseased vegetation, and harvesting of trees and new plantings.
4. Provide for scheduled maintenance of any structures or facilities located within the Dedicated Open Space.
5. Provide for maintenance to be undertaken by Holton Township in the event that the Dedicated Open Space is inadequately maintained, or is determined by the Township to be a public nuisance. Any costs incurred by the Township shall be assessed to the owners of the property within the PUD.

#### 4.07F Formula to Determine Number of Dwellings

The number of dwellings which may be constructed within a PUD shall be determined as follows:

1. Determine gross site area. The gross site area may include road right of way if included in legal description.
2. Subtract all of the areas identified as Primary Conservation Areas in Section 4.07G.
3. Subtract acreage devoted to non- residential uses.
4. Multiply this acreage by the density permitted in the R-2 Zoning District to determine the number of dwellings permitted. Any resulting fraction shall be rounded down to the nearest whole number.
5. Additional dwellings above what is allowed by Section 4.07F 1-4 above may be permitted at the discretion of the Planning Commission if the development provides additional amenities or preserves additional open space which would result in a significant recognizable benefit to the Township and residents of the PUD.
6. Formula for Additional Dwellings. If additional dwelling units are to be permitted by the Planning Commission as allowed by the above section, the number of dwelling units which may be constructed shall be determined as follows:
  - a. Determine gross site area. The gross site area may include road right of way if included in legal description;
  - b. Multiply this acreage by the density permitted in the R-2 Zoning District to determine the number of dwellings permitted. Any resulting fraction shall be rounded down to the nearest whole number.

#### 4.07G Preparation of PUD Preliminary Site Plan: 4 Step Design Process

1. 4 Step PUD Design Process. A site plan for a PUD shall be prepared according to the following process. Approval of a PUD site plan shall be based on how closely the site plan conforms to this design process as well as conformance to the standards for approval of a PUD contained in Section 9.14a of this Ordinance.

The applicant shall prepare two plans: Natural Features & Development Area

Map and a Site Plan using the design process described below.

<b>STEP 1</b>	<b>Prepare a Natural Features &amp; Development Areas Map</b>
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1. The Natural Features & Development Area Map shall illustrate the Primary Conservation Areas and those other areas on the site which are to be preserved as Dedicated Open Space on the site.
  - Primary Conservation Areas, for purposes of this Ordinance, shall be defined as existing wetlands, creeks, streams, ponds, floodplains and slopes over 20%.
  - The Dedicated Open Space illustrated on this map shall comply with the requirements for open space per Section 4.07E of this Ordinance.
  - Only one half of the Primary Conservation Areas shall be counted toward the required amount of Dedicated Open Space.
2. Label other natural site features such as woods, stands of trees, specimen trees, farm lands and fields, meadows and hedgerows, farm buildings and fences.
3. The Dedicated Open Space as required by Section 4.07E of this Ordinance shall be clearly labeled on the map. The areas outside the Dedicated Open Space shall be illustrated on the map as the Development Area which is the only area where house sites may be located.

<b>STEP 2</b>	<b>Locate House Sites on Natural Features &amp; Development Area Map</b>
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4. On the same Natural Features and Development Area Map illustrate the tentative location of house sites. The number of houses permitted for the site shall be as determined by Section 4.07F of this Ordinance.
  - House sites shall only be located within the Development Area identified in Step 1. A house site shall not be located within the Primary Conservation Areas or other areas illustrated as Dedicated Open Space.

<b>STEP 3</b>	<b>Locate Conceptual Roads on Natural Features &amp; Development Area Map</b>
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5. On the Natural Features & Development Area Map illustrate the conceptual location of streets which shall be designed to serve the house sites identified in Step 2. Trails shall also be illustrated on this plan. The location of streets should be designed according to the following design standards:
  - a. Avoid crossing wetlands and wildlife habitat areas with streets.
  - b. Street systems should be designed to produce terminal vistas (views) of open spaces, village greens, water features, meadows or playing fields.
  - c. Streets are encouraged to have houses on only one side of the street are to allow residents a view of open spaces within the development.
  - d. Every effort should be made to connect each street with another to minimize dead ends,

to provide safe and efficient access for emergency and public service vehicles, and to avoid conditions where certain residential streets become collectors that carry the majority of neighborhood traffic.

- e. Where cul-de-sacs are unavoidable, they should be provided with pedestrian and bike linkages to nearby streets or adjoining neighborhoods.
- f. Streets serving new developments should be designed to connect with adjoining properties.
- g. PUD developments shall, where feasible and appropriate, provide a trail system that provides pedestrian and bicycle linkage throughout the development, that take advantage of the open space areas. Linkage to future neighborhoods and developments that may occur adjacent to the development may be provided and are encouraged.

#### **STEP 4 Prepare Preliminary Site Plan**

- 6. Next, prepare a separate plan to be known as the Preliminary Site Plan in accordance with the requirements of Section 19.04 herein and:
  - Draw lot lines for each house site and the road rights-of-way within the Development Area and
  - Illustrate the boundaries of the Development Area on the Preliminary Site Plan.
    - a. If permitted by the MCHD, septic drain fields may be located within the Dedicated Open Space areas outside the lot lines.
    - b. As part of the Preliminary Site Plan, the applicant shall provide documentation from the Muskegon County Health Department that the soil types in the build able areas are acceptable for onsite well and septic systems.
- 7. The Natural Features Map plan prepared according to Steps 1 and 2 above along with the Preliminary Site Plan prepared according to Steps 3 and 4 shall be submitted to the Planning Commission for preliminary site plan review according to the procedures of this Ordinance.

Sec.4.07H Development Requirements. A PUD Cluster Subdivision permitted under this Section shall comply with the following requirements:

- 1. Grading. To preserve the natural appearance and beauty of the property, all graded areas, cuts and fills will be kept to a minimum. In appropriate cases, retaining walls may be required. Grading within the PUD shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land, and to have a minimal effect upon the environmental characteristics of the land as reasonably feasible.
- 2. Private Roads. Private roads within a PUD shall conform to the private road requirements of this Ordinance.
- 3. Utilities. The PUD shall be served by either private or community owned well and septic system approved by the Muskegon County Health Department or by a public water and sanitary sewer system.
- 4. Storm Water Management.



- a. A storm water management plan shall be submitted with the Final Development Plan. This plan shall provide information on how storm water will be controlled during and after construction. This plan shall be subject to the review and approval of the Planning Commission.
- b. Storm water shall be substantially managed with green infrastructure such as vegetated swales, rain gardens, stone weirs or dikes, sediment basins and shallow storm water areas. Storm water shall be minimally managed with conventional storm water management structures such as gutters, catch basins, underground pipes, detention ponds, and retention ponds. Underground detention facilities may be permitted.
- c. Storm water detention ponds may be allowed for the containment of storm water runoff if it is demonstrated that other storm water management measures as noted above are not feasible due to soil types, topography or other similar site features.
- d. Outdoor Lighting. Outdoor lighting shall be designed and located to avoid casting any direct or reflected glare upon neighboring property or upon adjacent structures within the proposed project.
- e. Setbacks Abutting Agricultural Uses. Where an area requested for a PUD abuts an active farm, the Planning Commission may approve a requirement that a buffer zone of 250 feet be provided along that portion of the PUD abutting the farm to mitigate any adverse effects of the farm operation on future residents of the PUD and to protect the farm operation from the impacts of non-farm residents. This buffer zone could include but would not be limited to greater setbacks for dwellings and yards, the provision of earthen berms or landscaping or a combination of these and other methods.

Sec.4.07I Standards For Approval

In order to approve a PUD, the Planning Commission must find that the proposed PUD meets the standards for Special Use Permit approval as contained in Section 13.06C of this Ordinance and the following standards as applicable:

- 1. Granting the PUD rezoning will result in a recognizable and substantial benefit to ultimate users of the project and to the community and the benefit would otherwise be unfeasible or unlikely to be achieved.
- 2. The PUD will not result in a significant increase in the need for public services and facilities and will not result in significant adverse effects upon nearby or adjacent lands or the natural environment unless the resulting adverse effects are adequately provided for or mitigated by features of the PUD as approved.
- 3. The PUD will be generally compatible with the Master Plan of the Township and consistent with the intent and purpose of the PUD Section.
- 4. The PUD is designed to substantially comply the with the four step design process of this Section.
- 5. Protects the rural roadside character by preserving or enhancing the existing view along the roadway.
- 6. The individual lots, buildings, roadways, and open space areas are designed to minimize the alteration of environmental site features.

**ARTICLE 5**  
***MEDIUM DENSITY RESIDENTIAL R-3***

The following provisions shall apply to all Medium Density Residential Districts, R-3:

**Sec. 5.01 PURPOSES**

To provide for a traditional, rural, medium density or clustered type of development in those areas not suited for other types of development, yet not in the category of lands requiring more expedient protection measures.

**Sec. 5.02 USES**

No building or structure, or part thereof, shall hereafter be erected, altered, used, or occupied, and land or premises used or occupied, in whole or in part, for other than one or more of the following specified uses:

**5.02A Primary Uses:**

1. Detached Single Family Residential development
2. Adult Day Care Home (no more than 6 persons 18 years & over)
3. Adult Foster Care Family Home (not more than six adults)
4. Family Day Care Home (less than seven minor children)

**5.02B Uses by Special Permit, as provided by Section 13.06:**

1. Churches
2. Schools and other educational institutions
3. Township and county administrative and service buildings and structures
4. Two Family Dwellings.
5. Fire-control structures
6. Other uses similar in character to the above and not specifically listed.
7. **Planned Unit Development Cluster Subdivisions according to the requirements of Section 5.06 herein.**
8. Adult Foster Care Large Group Home
9. Adult Foster Care Small Group Home
10. Group Day Care Home

**5.02C Accessory Uses:**

Uses, buildings and structures customarily incidental to any Primary use or Use by Special Permit.

**Sec. 5.03 MINIMUM LAND REQUIREMENTS**

Every lot or premises upon which a building is hereafter erected shall contain not less than 3 acres of area, and have not less than 264 feet width throughout its depth. In addition, a maximum depth to width ratio of not more than 2.5:1 shall apply. Also, lot coverage by buildings shall be limited to 7.5 percent of the total land area.

**Sec. 5.04 SETBACK AND YARD REQUIREMENTS**

**5.04A Setback:**

Every building hereafter erected shall set back from the front lot line, or right-of-way lines, not less than 40 feet.

**5.04B Side Yards:**

Every lot or premises upon which a building is hereafter erected shall have a side yard not less than 16 feet in depth between the side line of the building and side lot line.

5.04C Rear Yards:

There shall be a rear yard on each lot not less than 16 feet in depth.

**Sec. 5.05 LIVING SPACE OF DWELLINGS**

No dwelling hereafter erected shall provide less than 1,200 square feet of living space per family, exclusive of any area in any attached garage, open porch or other accessory structure.

**Sec. 5.06 PLANNED UNIT DEVELOPMENT CLUSTER SUBDIVISIONS**

A PUD Cluster Subdivision shall be permitted in the R-3 Zoning District in accordance with the requirements of Section 4.07 herein except that the minimum open space requirement shall be 40 percent and the density for determining the number of dwelling units permitted shall be based on the density of the R-3 Zoning District.

## ARTICLE 6 - R-4

The following provisions shall apply to all R-4 districts;

### **Sec. 6.01 PURPOSE**

The purpose of this district is to permit the utilization of relatively small quantities of land in predominantly rural areas for rural residential use, and to provide a buffer between more intensive residential or forest/recreational, and rural uses, respectively. It is not intended that this district be utilized to accommodate residential subdivisions as defined in the Michigan State Subdivision Control Act of 1967, as amended.

### **Sec. 6.02 USES**

No building or part thereof shall hereafter be erected, altered, used or occupied, and no land or premises used or occupied, in whole or in part, for other than one or more of the following specified uses, subject to the limitations found in this ordinance:

#### **6.02A Primary Uses:**

1. One single detached family dwelling.
2. Production of and harvesting of natural forest crops to include tree plantations, tree nurseries.
3. Soil and water conservation programs.
4. Essential services and utilities to serve the principal permitted uses.
5. Adult Day Care Home (**no more than 6 persons 18 years & over**)
6. Adult Foster Care Family Home (**not more than six adults**)
7. Family Day Care Home (**less than seven minor children**)

#### **6.02B Uses by Special Permit,** as provided by Section 13.06:

1. Churches
2. Schools and other educational institutions
3. Township and county administrative and service buildings and structures
4. Two Family Dwellings.
5. Fire-control structures
6. Other uses similar in character to the above and not specifically listed

#### **6.02C Accessory Uses:**

Uses, buildings and structures customarily incidental to any Primary use or Use by Special Permit.

### **Sec. 6.03 MINIMUM LAND REQUIREMENTS - DWELLINGS**

Every lot or premises upon which a building is hereafter erected shall contain not less than 6 acres of area, and have not less than 330 feet width throughout its depth. In addition, a maximum depth to width ratio of not more than 4:1 shall apply. Also, lot coverage by buildings shall be limited to 7.5 percent of the total land area. Other requirements and exceptions to these requirements are noted in Section 6.02A above. The requirements and restrictions for building living space, height, width; the lot area, width, frontage, yard areas shall be complied with as set forth in "TABLE OF STANDARDS FOR BUILDING AND LOT SIZE".

**Sec. 6.04 MINIMUM YARD REQUIREMENTS**

**6.04A Front Yards:**

Every building hereafter erected shall set back from the front lot line, or right-of-way lines, not less than 40 feet.

**6.04B Side Yards:**

Every lot or premises upon which a building is hereafter erected shall have open side yards of each side not less than 16 feet in width, and no building or part thereof shall be erected within such side yard.

**6.04C Rear Yards:**

Every lot or premises upon which a building is hereafter erected shall have a rear yard not less than 16 feet in depth between the rear line of the building and the rear lot line.

**Sec. 6.05 LIVING SPACE OF DWELLINGS**

No dwelling hereafter erected shall provide less than 1,400 square feet of living space per family, exclusive of any area in any attached garage, open porch or other accessory structure.

## **ARTICLE 7**

### ***AGRICULTURE A-1***

The following provisions shall apply to all Agriculture A-1 districts:

#### **Sec. 7.01 PURPOSE**

This district is intended to provide for the continuation of general farming and related activities. It is also intended that this designation maintain, preserve and enhance prime agriculture lands and prevent the untimely development for other use, and the destruction of agricultural lands.

Other specific purposes for which this district is established include:

1. To preserve woodlands and wetlands associated with farms which because of their natural physical features are useful as water retention, surface water purification and groundwater recharge areas, and as habitat for plant and animal life; and which have an important aesthetic and scenic value which contributes to the unique character of the agricultural district.
2. To provide the basis for land tax assessments which reflect its existing agricultural nature and owing to these regulations, its limited use for other purposes.
3. To prevent the conversion of agricultural land to non-farm development which when unregulated, unnecessarily increases the cost of public services to all citizens and results in the premature disinvestment in agriculture.
4. To protect farmland from speculative increases in land values.
5. To prevent loss of farmland.
6. To prevent conflicts between agricultural activities and residences.
7. To prevent encroachment of urban and suburban services into agricultural areas.
8. To encourage long-term investment in improvements needed to maintain and expand agricultural production by creating a stable environment for such production.
9. To reduce the amount of land consumed in rural areas for nonagricultural use.
10. To prevent intrusion of uses into farm areas which are incompatible with general farming activities.
11. Services and uses which are necessary to support farming activities.
12. To allow a limited amount of non-farm dwelling units in agricultural zones. To this end, the number of non-farm dwellings allowed on a parcel of land shall be based on a schedule of density contained in this article and shall be known as a sliding scale. However, it should be noted that the primary intended use of this district is agricultural activities and that these activities may not be compatible with non-farm residents.

#### **Sec. 7.02 USES**

No building or part thereof shall hereafter be erected, altered, used or occupied, and no land or premises used or occupied, in whole or in part, for other than one or more of the following specified uses, subject to the limitations found in this ordinance.

7.02A Primary Uses:

1. One detached single family dwelling.
2. Farm labor housing as an accessory use to a farm provided the following conditions are met in addition to the other requirements of the district.
  - a. Compliance with the Michigan Public Health Code being Act 368 of the Public Acts of Michigan of 1978, as amended, including any rules promulgated pursuant thereto.
  - b. The occupants are employed on the farm by the owner of the property while they occupy the housing.
  - c. Farm labor housing shall meet lot area and setback requirements.
  - d. This parcel shall be adjacent to the owners parcel and both parcels shall be under the same ownership. Creation of such a parcel shall be considered a split under the "sliding scale" table in Sec. 9.3 herein.
  - e. Farm labor housing shall not be permitted on a farm lot of record having ten (10) acres or less.
  - f. Adult Day Care Home (no more than 6 persons 18 years & over)
  - g. Adult Foster Care Family Home (not more than six adults)
  - h. Family Day Care Home (less than seven minor children)
3. Agriculture, farming, dairying, stock raising and other non-intensive agricultural activities including stock nurseries, orchards and tree farms.
4. Produce stands, if sufficient off-street parking space for customers is provided.
5. Essential services and utilities to serve the principal permitted use.
6. Customary accessory uses, equipment and structures provided such uses are clearly incidental to the principal permitted use.

**Sec. 7.03 MAXIMUM LAND REQUIREMENTS**

Every lot or premises upon which a building is hereafter erected shall contain not more than 2 acres of area, and have not less than 264 feet width throughout its depth. In addition, a maximum depth to width ratio of not more than 1.25:1 shall apply to agricultural lots. Also, lot coverage by buildings shall be limited to 7.5 percent of the total lot area.

1. Construction and use of land in this district shall conform to the minimum requirements of this

Ordinance as set forth in "ARTICLE, TABLE OF STANDARDS FOR BUILDING AND LOT SIZE".

2. The required lot width shall abut a public road or street.
3. Lot splits for dwellings:
  - a. The maximum number of lots that may be created or split for new dwelling units shall be based on the gross area of the lot of record which is to be subdivided as listed in the following table:

PERMITTED LOT SPLIT TABLE  
("Sliding Scale")

*Area of Lot of Record	Number of Lots Permitted for New Dwelling Units
10 acres or less	0
Greater than 10 acres to 20 acres	1
Greater than 20 acres to 40 acres	2
Greater than 40 acres to 80 acres	3
Greater than 80 acres	4

\*For application purposes, where actual acreage is percentage of an acre, this shall be rounded upward to the next whole acre.

- b. In addition to the splits allowed under the above table, every farm which contains a single family dwelling existing before the adoption of this amendment shall be allowed to split a lot from the main farm acreage and create a new lot for the existing dwelling. This new lot shall comply with the lot size requirements contained herein for dwellings. Any additional such splits are not permitted.
    - c. The above regulations shall not cause the lot of record to be split in such a manner which would violate the lot split provisions contained in the Subdivision Control Act of 1967, being Act 288 of the Public Acts of Michigan of 1967 as amended. Any provision of this Ordinance notwithstanding, Holton Township is not responsible for any violations of this Ordinance or the Subdivision Control Act.
4. Lot without Public Road Frontage: Nothing in this Ordinance shall prevent the construction of an accessory building related to Agricultural use from being built on land without road frontage.

**Sec. 7.04 MONITORING LOT SPLITS**

Holton Township recognizes that proper administration of the "sliding scale" concept is important in meeting the intent of this Ordinance. The following procedures have been established to help ensure proper monitoring of lot splits.

1. Concurrent with the adoption of this Ordinance, a map indicating existing lots, parcel numbers, and land ownership shall be established along with a register containing this information.



2. An allotment of dwelling units possible under this Ordinance shall be made for each parcel in the "A" Agriculture District.
3. As allotments are used up, the map and register shall be updated to reflect these changes.
4. The map and register shall be maintained by the Township Clerk and copies made available for inspection by the public.

**Sec. 7.05 LIVING SPACE OF DWELLINGS**

No dwelling hereafter erected shall provide less than 860 square feet of living space per family, exclusive of any area in any attached garage, open porch or other accessory structure.

**Sec. 7.06 \*USES BY SPECIAL PERMIT**, as provided by Section 13.06:

1. Farm related businesses.
2. Services necessary to support farming activities.
3. Produce stands selling non-site raised products.
4. Other uses similar in character to the above and not specifically listed.

\*Amended to Ordinance January 8, 2002, effective January 25, 2002.

\*Amended to Ordinance September 11, 2018, effective October 14, 2018.

## **ARTICLE 8**

### ***FOREST/RECREATIONAL, FOR***

The following provisions shall apply to all Forest/Recreational, FOR districts:

#### **Sec. 8.01 PURPOSE**

The purpose of this district is to enable the use of, and limit the inappropriate encroachment onto, those lands which are either part of the Manistee National Forest and are used principally for recreation and the preservation of natural areas, or those private lands in the vicinity of the National Forest which are used for the same general purposes.

#### **Sec. 8.02 USES**

No building or part thereof shall hereafter be erected, altered, used or occupied, and no land or premises used or occupied, in whole or part, for other than one or more of the following specified uses, subject to the limitations found in this ordinance.

##### **8.02A Primary Uses:**

1. Parks and playgrounds
2. Scenic areas, wooded areas, areas of unusual topographic conformation
3. Historic sites
4. Public beach development

##### **8.02B Uses by Special Permit, as provided by Section 13.06:**

1. Churches
2. Schools and other educational institutions
3. Township and county administrative and service buildings and structures
4. Fire-control structures
5. Veterinarian clinics and facilities for the care and/or boarding of animals
6. Community buildings, parks, playgrounds and other recreational areas
7. Single Family Dwellings and Two Family Dwellings where subject to proportionally greater lot size as determined by the Planning Commission
8. Outdoor sports and related activities
9. Other uses similar in character to the above and not specifically listed

##### **8.02C Accessory Uses:**

Uses, buildings and structures customarily incidental to any Primary use or Use by Special Permit.

#### **Sec. 8.03 MINIMUM LAND REQUIREMENTS**

Every lot or premises upon which a building is hereafter erected shall contain not less than 10 acres of area, and have not less than 440 feet width throughout its depth. In addition, a maximum depth to width ratio of not more than 3:1 shall apply. Also, lot coverage by buildings shall be limited to 7.5 percent of the total lot area.

#### **Sec. 8.04 AREA AND DENSITY REGULATIONS**

1. Construction and use of land in this district shall conform to the minimum requirements of this ordinance as set forth in "ARTICLE, TABLE OF STANDARDS FOR BUILDING AND LOT SIZE".

2. The required lot width shall abut a public road or street.
3. Lot splits for dwellings:
  - a. The maximum numbers of lots that may be created or split for new dwelling units in addition to creating a lot for an existing dwelling unit shall be based on the gross area of the lot of record which is to be subdivided, as listed in the following table:

**PERMITTED LOT SPLIT TABLE**  
(Sliding Scale")

<u>*Area of Lot of Record</u>	<u>Number of Lots Permitted for New Dwelling Units</u>
10 acres or less	0
Greater than 10 acres to 20 acres	1
Greater than 20 acres to 40 acres	2
Greater than 40 acres to 80 acres	3
Greater than 80 acres	4

\*For application purposes, where actual acreage is percentage of an acre, this shall be rounded upward to the next whole acre.

- b. The above regulations shall not cause the lot of record to be split in such a manner which would violate the lot split provisions contained in the Subdivision Control Act of 1967, being Act 288 of the Public Acts of Michigan of 1967 as amended. Any provision of this Ordinance notwithstanding, Holton Township is not responsible for any violations of this Ordinance or the Subdivision Control Act.
4. Lot without Public Road Frontage: Nothing in this Ordinance shall prevent the construction of an accessory building related to Forest-Recreational use from being build on land without road frontage.

**Sec. 8.05 MONITORING LOT SPLITS**

Holton Township recognizes that proper administration of the "sliding scale" concept is important in meeting the intent of this Ordinance. The following procedures have been established to help ensure proper monitoring of lot splits.

1. Concurrent with the adoption of this Ordinance, a map indicating existing lots, parcel numbers, and land ownership shall be established along with a register containing this information.
2. An allotment of dwelling units possible under this Ordinance shall be made for each parcel in the FR District.
3. As allotments are used up, the map and register shall be updated to reflect these changes.
4. The map and register shall be maintained by the Township Clerk and copies made available for inspection by the public.

**Sec. 8.06 LIVING SPACE OF DWELLINGS**

No dwelling hereafter erected shall provide less than 1,400 square feet of living space per family, exclusive of any area in any attached garage, open porch or other accessory structure.

**Sec. 8.07 EXISTING LOTS OF RECORD**

Every lot or premises upon which a building is hereafter erected shall contain not less than 10 acres of area, and have not less than 440 feet width throughout its depth. In addition, a maximum depth to width ratio of not more than 3:1 shall apply. Also, lot coverage by buildings shall be limited to 7.5 percent of the total land area. The requirements and restrictions for building living space, height, width; the lot area, width, frontage, yard areas shall be complied with as set forth in "ARTICLE", TABLE OF STANDARDS FOR BUILDING AND LOT SIZE".

## **ARTICLE 9**

### **COMMERCIAL DISTRICTS C-1**

The following provisions shall apply to all Commercial Districts, C-1;

#### **Sec. 9.01 PURPOSES**

**This district is intended for the purpose of accommodating a wide variety of retail and service establishments to serve the shopping needs of local residents and the motoring public primarily along Holton Road (M 120).** As in other districts, provision is also made by “Special Use Permit” for inclusion of enterprises and activities requiring special consideration.

#### **Sec. 9.02 USES**

No building or structure, or part thereof, shall hereafter be erected, altered, used or occupied, and land or premises used or occupied, in whole or in part, for other than one or more of the following specified uses:

9.02A Primary Uses: No building or structure, or part thereof shall hereafter be erected, altered, used, or occupied, and land or premises used or occupied, in whole or in part, for other than one or more of the following specified uses:

1. Retail shops and stores, including but not limited to bakeries, pharmacies including those with a drive-up window, hardware stores, appliance, electronics and furniture stores, clothing shops, video rental and sales and similar retail sales uses.
2. Personal service establishments such as barber shops, beauty salons, shoe repair, photographic studios, dry cleaning, self-service laundry facilities, business or trade schools, studios for dance and music, health and physical fitness establishments, hotels and motels and other similar uses.
3. Professional offices including doctors, dentists, medical clinics, offices for governmental agencies, and other similar professions.
4. Libraries, museums, post offices and similar public uses.
5. The repair or assembly of products sold by a permitted use in this district provided it does not constitute the principal use and all such work is performed inside.
6. Catering establishment.
7. Financial and business service establishments such as banks with or without drive up windows.
8. Gas station/convenience stores.
9. Motor vehicle service stations and gas service stations which perform such services as tire sales and installation; oil changes; brake, shocks and exhaust work; engine analysis and tune-ups; front end alignments; heating and air conditioning repair and similar minor vehicle repair services. All such services shall take place within an enclosed building and no materials or parts shall be kept outdoors. Limited outdoor repair of vehicles is permitted provided such activities do not create a nuisance to adjacent properties.
10. Eating and drinking establishments with or without drive through or drive up facilities. Outdoor

dining is permitted.

11. Establishments serving alcoholic beverages, with or without live music subject to any applicable State of Michigan regulations.
12. Mini warehouses / self-storage buildings
13. Shops or stores for carrying on the trade of decorators, painters, upholsterers & photographers.
14. Indoor recreation establishments such as video arcades and video gaming establishments, indoor rock climbing and pool and billiards establishments.
15. Establishments for the repair of small engines, appliances and similar equipment.
16. Essential public service equipment.
17. Ambulance service establishments.
18. Municipal garages, fire barns, utility service buildings, or storage yards.
19. Wholesale establishments
20. Single family dwellings are subject to R-1 standards. In addition a house shall not be on the same lot as any other use permitted.
21. Adult Day Care Home, Adult Foster Care Family Home and Family Day Care Home.
22. Uses and structures customarily incidental and accessory to the principal use
23. Other uses which are determined by the Zoning Administrator to be similar in nature and operation to the above uses.

9.02B \*Uses by Special Permit. Land and/or buildings in the C-1, Commercial District may only be used for the following uses when approved for a Special Use Permit by the Planning Commission, subject to the provisions of Section 13.06A of this Ordinance.

1. Veterinary clinics, animal hospitals, animal boarding, dog kennels.
2. Open air businesses including but not limited to: the sale of motor vehicles, farm implements, lawn and garden equipment sales and service, motor homes, trailers, boats, mobile or modular homes, and similar uses.
3. Vehicle body shops provided all work is performed within an enclosed building and the outside storage of vehicles is screened from the view of nearby properties.
4. Automatic and self-serve vehicle wash facilities.
5. Outdoor movie theatres.
6. Machine shops and tool and die establishments.

7. Outdoor places of assembly for public amusement or entertainment or assembly.
8. Retail building supply and equipment stores.
9. Retail nurseries and garden centers.
10. Carpenter, electrical, plumbing, heating, sheet metal, printing, publishing, when conducted in conjunction with retail trade.
11. Indoor and outdoor recreation facilities which by their nature can attract a large number of users or which operate in a manner which can negatively affect nearby properties. Such uses include but are not limited to athletic fields, skating rinks, bowling alleys, movie theaters, and miniature golf courses and go cart tracks.
12. Housing for the elderly including retirement housing, assisted living and nursing facilities.
13. Adult Foster Care Large Group Home, Adult Foster Care Small Group Home, and Group Day Care Home.
14. Adult and child day care centers.
15. Adult entertainment businesses as regulated by Section 9.07 herein.

\*Amended September 11, 2018, effective October 14, 2018.

**Sec. 9.03 MINIMUM LAND REQUIREMENTS**

Every lot or premises upon which a building is hereafter erected shall contain not less than 24,750 square feet of area, and have not less than 165 feet width throughout its depth, and a minimum depth of 150 feet.

**Sec. 9.04 SETBACK and YARD REQUIREMENTS**

9.04A Front Yard

Every building hereafter erected shall set back from the front lot line, or right-of-way lines, not less than 60 feet.

9.04B Side Yards

Side yards shall not be required along interior side lot lines if all walls abutting or facing such lot lines are of fire-proof masonry construction and wholly without windows or other openings. Side yards of not less than sixteen feet shall be provided when any wall facing such side lines contains windows to other openings. A side yard of no less than sixteen feet shall be provided when any wall facing such side lines contains windows to other openings. A side yard of not less than twenty feet shall be provided on any lot or premises abutting Residential Districts, or any premises occupied by a dwelling.

9.04C Rear Yard

The rear yard shall not be less than 20 feet.

**Sec. 9.05 ADDITIONAL REGULATIONS:**

**9.05A Driveway Spacing and Distance from Corner**

There shall be a minimum spacing between adjacent driveways of 150 feet, both on the property and adjoining properties. In addition, on corner lots, driveways shall be spaced so that a minimum distance from the intersection of the right-of-way of each road is 75 feet.

**9.05B Landscaping & Fencing**

Wherever a Commercial zone abuts an R-1 or R-2 zone or whenever a Commercial zone abuts a residential use such as a house in a Commercial zone a landscape area shall be provided as follows:

1. The landscape area shall be a minimum of 15 feet wide as measured from the property line.
2. For each 25 linear feet abutting the adjacent property, three trees shall be planted within the greenbelt. Such trees shall be a mixture of evergreen, canopy and ornamental trees.
3. The Planning Commission may require a solid fence no more than six feet in height be provided instead of landscaping if it is determined that a fence would provide a more effective screen.
4. The Planning Commission in its review of the site plan has the authority to increase, decrease or otherwise modify the above landscaping and fencing requirements of this article. In doing so, the Commission shall consider the following criteria:
  - a. The amount of space on the site available for landscaping.
  - b. Existing landscaping on the site and on adjacent properties.
  - c. The type of use on the site and size of the development
  - d. Existing and proposed adjacent land uses.
  - e. The effect the required landscaping would have on the operation of the existing or proposed land use.

**9.05C Parking**

Off street parking shall be provided in accordance with the requirements of Chapter 25 herein

**9.05D Dumpster Enclosure**

All refuse containers shall be placed within a three sided solid enclosure which is at least two feet higher than the container and such container shall be located in so far as practicable so as to not create a nuisance to nearby residential properties when the container is being unloaded.

**9.05E Site Plan**

A site plan shall be required for all uses according to the requirements of Article 19 herein.

**9.05F Structure Facade**

At least eighty percent (80%) of that portion of a structure or building, be it a front, side, or rear, which faces a public street shall be finished with face brick, wood, glass, or stone fluted cement block, or stucco-like material. In recognition of developing technologies in building materials, the Planning Commission in reviewing a site plan may agree to approve other materials provided that they are compatible with surrounding properties, and further provided that such materials meet appropriate architectural, aesthetic,



and safety concerns as may be provided for in any duly adopted Ordinances and/or Building and Fire Codes.

Additions to or renovations of buildings existing as of the date of the Section shall be subject to the requirements of this section. The Planning Commission or Zoning Administrator, depending upon the type of review required, shall have the authority to modify or waive these requirements or to extend them to the entire facade of the existing building.

In determining the facade requirements of this section, the following criteria shall be considered:

1. The location of the addition or renovation relative to the existing building.
2. The size relative to the existing building.
3. The location of the existing building.
4. Whether compliance with this Section will result in architectural consistency with the existing building and improve the overall aesthetics of the building.
5. The practicality of requiring compliance with this Section based on the design and structural integrity of the existing building.
6. Whether modifications of the building will have a negative impact on the character, safety, and welfare of the neighborhood or surrounding area.

## **9.06 ADULT ENTERTAINMENT BUSINESSES**

### 1. Adult Entertainment Definitions.

a. **ADULT ENTERTAINMENT BUSINESS** shall mean any store, establishment, tavern, club, or theater having as a substantial or significant portion of its trade, the display, barter, rental or sale of books, peep booths, magazines, periodicals, video movies, films, photographs, novelties, or other materials or paraphernalia distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specific sexual activities" or "specified anatomical areas" as defined hereinafter, OR any "sexually oriented adult entertainment premises", as defined hereafter, including but not limited to adult bookstores, adult entertainment shows, adult motion picture theaters, and adult arcades.

For purposes of this Ordinance, any establishment or premises having more than ten percent of its square footage of the floor area open to the public devoted to the display, barter, rental or sale of printed matter, pictures, graphics, novelties, or other materials or paraphernalia distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specific adult activities" or "specified anatomical areas" shall be presumed to have a substantial or significant portion of its trade devoted to such regulated activities.

b. **ADULT MATERIALS** means materials that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, but shall not include movies rated "G," "PG," "PG-13," or "R," the registered trademarks of the Motion Picture Association of America. For purposes of this article, the term "materials" include pictures, text, videos, audio tapes, cartoons, books, magazines, novelties, and other printed items.

c. **NOVELTY** means any instrument, device, or paraphernalia which depicts or describes any "specified sexual activities," or "specified anatomical areas," or which is designed for use, or commonly used, in connection with "specified sexual activities," excluding condoms and other birth control and disease prevention products.

d. **PEEP BOOTH** means a viewing room, other than a private room not authorized for admittance by patrons, of less than 150 square feet of floor space upon the premises of an adult entertainment

business regulated herein where there is exhibited photographs, films, motion pictures, video cassettes, video reproductions, or other visual representations, or which depict or describe specified anatomical areas or specified sexual activities.

e. SEXUALLY ORIENTED ADULT ENTERTAINMENT means any entertainment conducted in a public place of amusement where such entertainment involves a person appearing or performing in a state of nudity, as defined herein.

f. SEXUALLY ORIENTED ADULT ENTERTAINMENT PREMISES means any premises to which the public, patrons or members are invited or admitted and wherein an entertainer provides sexually oriented adult entertainment on a regular basis and as a substantial part of the business operation.

g. SPECIFIED ANATOMICAL AREAS shall mean:

- 1) Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola.
- 2) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

h. SPECIFIED SEXUAL ACTIVITIES shall mean:

- 1) Human genitals in a state of sexual stimulation or arousal.
- 2) Acts of human masturbation, sexual intercourse, or sodomy.
- 3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

i. STATE OF NUDITY A person appears in a "state of nudity" when such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, or genitals.

## 2. Restriction on Locations of Adult Entertainment

- a. An adult entertainment business may be located only in a C-1 Commercial zone.
- b. An adult entertainment business shall be permitted only by special use permit granted by the Township Planning Commission, and after public hearing as otherwise required by the Township for issuance of a special use permit. The special use permit shall be approved only if there has been compliance with all provisions of this Ordinance and all other applicable Township Ordinances.

An adult entertainment business shall not be located:

- 1) Within 200 feet of the property line of any single-family, two-family or multiple-family residential use. For purposes of this section, the term "multiple-family residential use" shall specifically include, but not by way of limitation, any retirement, convalescent or nursing home or facility or other housing for the elderly.

- 2) Within 200 feet of the property line of any public or private school, college or university, or of any nursery school, day nursery or child care center.
- 3) Within 200 feet of the property line of any church or other religious facility or institution.
- 4) Within 200 feet of any public park.
- 5) Within 200 feet of any other adult entertainment business.  
The distances provided for in this subsection shall be measured by projecting a straight line, without regard for intervening buildings or structures, from the nearest point of the building, structure or tenant space within which the proposed use is to be located to the nearest point of the property line, specified use from which the proposed use is to be separated.

### 3. Enclosed Portions Requirement

No person shall appear in a state of nudity except within the fully enclosed portions of the structure housing the adult entertainment business.

#### 1) Exterior Structural Requirements:

All adult entertainment businesses must comply with the following exterior structural requirements:

- a. The merchandise or activities of the adult entertainment business shall not be visible from any point outside the business.
- b. The exterior of the adult entertainment business shall not utilize flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner.
- c. The exterior of the building containing the adult entertainment business shall not be painted any color other than a single neutral color.

#### 2) Signs:

Signs for an adult entertainment business shall comply with the following requirements:

- a) One free standing sign and one wall sign is permitted per parcel
- b) A sign shall not exceed 50 square feet in area
- c) A sign shall not contain any photographs, silhouettes, drawings, or pictorial representations of any manner which refer to, or depict, any state of nudity, specified anatomical areas, or specified sexual activities.
- d) A sign shall not contain any flashing lights and shall only be internally illuminated
- e) A sign shall be prominently displayed on or next to the door to the enclosed area so that it can be easily viewed by any person who approaches the door of the enclosed area. Typeface must be as large as any other typeface that advertises adult material on the premises, but in no case shall the letters be less than one-half inch tall. This sign shall read

as follows:

RESTRICTED AREA ADULT MATERIAL ENCLOSED  
MUST BE 18 YEARS OLD OR OLDER TO ENTER

- f) Any other advertising of adult materials on the premises shall include the following legend:

ADULT MATERIAL  
MUST BE 18 YEARS OLD OR OLDER  
TO VIEW, RENT OR PURCHASE

This legend shall be in legible typeface and shall be as large as the largest typeface in the advertisement.

4. Regulations on Sale, Rental or Viewing of Adult Materials

Adult materials may be held for sale, rent, or view in the Township only in accordance with the following use regulations:

- a. Enclosed area. All adult materials shall be maintained in a separate area of the premises. The area shall be completely enclosed by opaque walls or partitions which are at least seven feet in height. The area shall have no windows, and shall have an opaque door which shall enclose the area from the floor to at least seven feet in height. The door shall be kept closed during all hours of operation. An employee of the adult entertainment business shall monitor the enclosed area either in person or by video camera at all times.
- b. Age restriction. Access to the enclosed area, including viewing of any part of the enclosed area, and all sales or rentals of adult materials shall be limited to persons age 18 or older. This restriction includes, but is not limited to, patrons and employees. No minor shall enter or otherwise gain access to, or attempt to gain access to, any adult materials. No adult or minor shall knowingly assist any minor in gaining access, or attempting to gain access to, any adult materials.
- c. Proof of identification. Any employee of a business has the right to require a current valid picture identification card from any person desiring to purchase, rent or gain access to adult materials

5. Uniform Hours of Operation

An adult entertainment business shall be open to the public only during the hours of 7:00 A.M. to 2:30 A.M.

6. Conditions and Limitations

The Planning Commission may impose any such conditions or limitations upon the establishment's location, construction, maintenance, or operation of the adult entertainment business as may in its judgment be necessary for the protection of the public interest. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection herewith will be fulfilled. Failure to follow such limitation or condition will result in the immediate termination of any special use permit granted to such adult entertainment business.

7. Conditions For Rejection

The Planning Commission shall not approve a special land use application for a sexually oriented

business if it finds one or more of the following to be true:

- a. An applicant is under 18 years of age;
- b. An applicant is overdue in payment to the Township of taxes, fees, fines or penalties assessed against the applicant or imposed upon the applicant in relation to a sexually oriented business;
- c. An applicant has failed to provide information required by the Holton Township Zoning Ordinance or has knowingly answered a question or request for information falsely;
- d. The premises to be used for the sexually oriented business has not been approved by the building inspector and the zoning enforcement officer as being in compliance with applicable laws and ordinances;
- e. The applicant or a director, officer, partner, member, principal manager or chief executive officer of the applicant has had a sexually oriented business license or adult business license revoked or suspended within one year prior to the date of application.
- f. The applicant or a director, officer, partner, member, principal manager or chief executive officer of the applicant has operated a sexually oriented business or adult business which was determined to be a public nuisance under laws of any state, county, city, village or township within one (1) year prior to the date of application;
- g. The applicant is not in good standing or authorized to do business in Michigan;
- h. The application fee has not been paid;
- i. An application of the proposed sexually oriented business is in violation of or is not in compliance with, any of the provisions of this section;
- j. The applicant has been convicted of any of the following criminal offenses in any jurisdiction within the last 10 years:
  - 1) Prostitution, procuring a prostitute, or solicitation of a prostitute;
  - 2) Sale, distribution or display of obscene material;
  - 3) Sale, distribution or display of material which is harmful to minors;
  - 4) Soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor;
  - 5) Possession, sale or distribution of child pornography;
  - 6) Public lewdness;
  - 7) Indecent conduct with a child;
  - 8) Sexual assault or rape;
  - 9) Sexual solicitation of a child;

- 10) Contributing to the delinquency of a minor; or
- 11) Harboring a runaway child.

8. Limit on Reapplication

No application for an adult entertainment business which has been denied wholly or in part shall be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence not previously available, or proof of changed conditions.

**ARTICLE 9A**  
***C-2 DOWNTOWN DISTRICT***

**Sec. 9A.01 PURPOSES**

The C-2, Downtown District is intended to allow for a mixed use of commercial and residential development and maintain the physical character of downtown Holton. The regulations of this District are designed to recognize the unique physical configuration of the downtown area and to bring the existing buildings and uses into conformance with the Ordinance. As in other districts, provision is also made by “Special Permit” for inclusion of enterprises and activities requiring special consideration.

**Sec. 9A.02 PRIMARY USES**

No building or structure, or part thereof shall hereafter be erected, altered, used, or occupied, and land or premises used or occupied, in whole or in part, for other than one or more of the following specified uses:

1. All uses listed in Section 9.02 in the Commercial, C-1 District.
2. Churches, synagogues, mosques and similar houses of worship.
3. Public parks.
4. Residential dwellings above retail, service and office uses subject to the following:
  - a. The dwelling unit(s) shall only be located on the second and / or third floors of a building.
  - b. The dwelling unit(s) shall be completely separated from the non-residential uses in the same building with a separate means of entrance and internal or external staircase.
  - c. Each dwelling unit shall contain a minimum of 700 square feet of floor area for a one bedroom unit and an additional 100 square feet of floor area for each additional bedroom.
  - d. Second and third story residential uses shall comply with all applicable accessibility requirements of the Americans with Disabilities Act.
  - e. Off street parking shall be provided as required by this Ordinance.
  - f. A building permit shall be obtained to establish a dwelling unit in order to ensure compliance with the requirements of this Section and with the Township Building Code, Fire Code and the County Health Department. The entire building containing the dwelling unit(s) shall be also be brought into compliance with the Building Code and Fire Code before an occupancy permit is issued.
5. Other uses which are determined by the Zoning Administrator to be similar in nature and operation to the above uses.

**Sec. 9A.03 USES BY SPECIAL PERMIT**

Land and/or buildings in the C-2, Downtown District may only be used for the following uses when approved for a Special Use Permit by the Planning Commission, subject to the provisions of Section 13.06A of this Ordinance.

1. Essential public services buildings.
2. Housing for the elderly including retirement housing, assisted living and nursing facilities.

3. Adult and child day care centers.

**Sec. 9A.04 MINIMAL LAND REQUIREMENTS**

No minimum lot size or width is required.

**Sec. 9A.05 SETBACK AND YARD REQUIREMENTS**

9A.05A Front Setback

No required setback from the front lot or right-of-way lines.

9A.05B Side Yards

Side yards shall not be required along interior side lot lines if all walls abutting or facing such lot lines are of fire-proof masonry construction and wholly without windows or other openings. Side yards of not less than sixteen feet shall be provided when any wall facing such side lines contains windows to other openings.

A side yard of no less than sixteen feet shall be provided when any wall facing such side lines contains windows to other openings. A side yard of not less than twenty feet shall be provided on any lot or premises abutting Residential Districts, or any premises occupied by a dwelling.

9A.05C Rear Yard

The rear yard shall not be less than 20 feet.

**Sec. 9A.06 ADDITIONAL REGULATIONS:**

9A.06A Parking

Off street parking shall be exempt from the requirements of Chapter 25 herein.

9A.06B Dumpster Enclosure

All refuse containers shall be placed within a three sided solid enclosure which is at least two feet higher than the container and such container shall be located in so far as practicable so as to not create a nuisance to nearby residential properties when the container is being unloaded.

9A.06C Site Plan

A site plan shall be required for all uses according to the requirements of Article 19 herein.

9A.06D Structure Façade:

At least eighty percent (80%) of that portion of a structure or building, be it a front, side, or rear, which faces a public street shall be finished with face brick, wood, glass, stone, or fluted cement block, or stucco-like material or a combination of these materials. The use of composite wood and particle board material is prohibited.

In recognition of developing technologies in building materials, the Planning Commission may agree to approve other materials provided that they are compatible with surrounding properties, and further provided that such materials meet appropriate architectural, aesthetic, and safety concerns as may be provided for in any duly adopted Ordinances and/or Building and Fire Codes.

Additions to or renovations of buildings existing as of the date of the Section shall be subject to the requirements of this section. The Planning Commission or Zoning Administrator, as the case may be, shall have the authority to modify or waive these requirements or to extend them to the entire façade of the existing building.



In determining the facade requirements of this section, the following criteria shall be considered:

1. The location of the addition or renovation relative to the existing building.
2. The size relative to the existing building.
3. The location of the existing building.
4. Whether compliance with this Section will result in architectural consistency with the existing building and improve the overall aesthetics of the building.
5. The practicality of requiring compliance with this Section based on the design and structural integrity of the existing building.
6. Whether modifications of the building will have a negative impact on the character, safety, and welfare of the neighborhood or surrounding area.

## **ARTICLE 10**

### ***INDUSTRIAL DISTRICT, ID***

#### **Sec. 10.01 PURPOSES**

It is the intent of this Chapter to provide for the development of a variety of industrial and manufacturing uses that can be characterized by low land coverage and the absence of objectionable external effects. Regulations contained in this district are designed to encourage the development of industrial areas which will be compatible with one another and with adjacent or surrounding districts.

#### **Sec. 10.02 PRIMARY USES**

Land and/or buildings may be utilized for the following uses only:

1. Manufacture, compounding, processing, packaging, treating, and assembling from previously prepared materials in the production of:
  - a. Food products, including meat, (but excluding slaughter houses), dairy, fruit, vegetable, seafood, grain, bakery, confectionery, beverage, and kindred foods.
  - b. Textile mill products, including woven fabric, knit goods, dyeing and finishing, floor coverings, yarn and thread, and other textile goods.
  - c. Apparel and other finished products made from fabrics, leather goods, fur, canvas, and similar materials.
  - d. Lumber and wood products, including millwork, prefabricated structural wood products and containers, not including logging camps products or processes involving the use, manufactures, or production of wood pulp unless it is used in dry form and in a manner that does not produce objectionable odors;
  - e. Furniture and fixtures.
  - f. Paperboard containers, building paper, building board, and bookbinding.
  - g. Printing and publishing.
  - h. Manufacturing of engineering, measuring, optic, medical, lenses, photographic, and similar instruments.
  - i. Jewelry, silverware, toys, athletic, office, and tobacco goods, musical instruments, signs and displays, and similar manufacturing establishments.
2. General manufacturing, fabrication and assembly operation.
3. Research and development testing and experimental laboratories and manufacturing.
4. Essential public services.
5. Trade and industrial schools.

6. Tool and die manufacturing establishments
7. Warehousing, storage, or transfer buildings.
8. Truck terminals, including maintenance and service facilities.
9. Wholesale establishments, including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products.
10. Mini warehouses and self-storage facilities. Outside storage of any materials including vehicles, boats, and trailers may be allowed by the Planning Commission if such items are adequately screened as viewed from the roadway.
11. Any similar industrial uses which meet the intent of this district when authorized by \_\_\_\_\_ the Planning Commission.
12. Uses customarily incidental and accessory to the permitted principal use.

**Sec. 10.03 USES BY SPECIAL USE PERMIT**

The following uses may be permitted upon issuance of a special use permit approved by the Planning Commission in accordance with the requirements of Chapter 13.06 of this Ordinance.

1. Asphalt, concrete or similar refining and manufacturing.
2. Salvage yards.
3. Refuse and garbage incinerators.
4. Scrap tire collection sites and scrap tire processors.
5. Manufacture of gas, coke, or coal tar products.
6. Manufacture of ammunition, fireworks, or other explosives.
7. Stockyards and slaughterhouses.
8. Blast furnaces, drop forges, petroleum refining, metal stamping, and similar uses.
9. Solid waste processing facility, including composting as an incidental use.
10. Essential public service buildings.
11. Central dry-cleaning plants.
12. The manufacture, assembly, treating or packaging of previously prepared chemical products such as plastics, perfumes, synthetic fibers.
13. Lumberyards and other building equipment supply establishments.

14. Commercial fuel depot.
15. Vehicle repair or body shops including shops with wrecker service provided all work is performed within an enclosed building and storage of vehicles is within an area which is well screened from the view of nearby properties and roadways.
16. Contractor equipment yards and operations including but not limited to businesses engaged in excavating, oil and water well drilling, utility installation and servicing, landscaping, plumbing, electrical supply and installation, road construction, building materials supply and other similar uses engaged in the construction trades.
17. Sawmills

**Sec. 10.04 MINIMUM LAND REQUIREMENTS**

Every lot or premises upon which a building is hereafter erected shall contain not less than 43,460 square feet of area, (**one acre**) and have not less than **165 feet** of width throughout its depth.

**Sec. 10.05 SETBACK and YARD REQUIREMENTS :**

10.05A Front Yard

Every building hereafter erected shall set back from the front lot line, or right-of-way lines, not less than 60 feet.

10.05B Side Yards

Side yards shall not be required along interior side lot lines if all walls abutting or facing such lot lines are of fire-proof masonry construction and wholly without windows or other openings. Side yards of not less than sixteen feet shall be provided when any wall facing such side lines contains windows or other openings. A side yard of not less than **50 feet** shall be provided on any lot or premises abutting Residential Districts, or any premises occupied by a dwelling.

10.05C Rear Yard

The rear yard shall not be less than 20 feet in depth which shall be kept open and free at all times from obstructions for ingress and egress of firefighting facilities. Where an Industrial Zone abuts a zone which permits residential use or an area recommended for such use in the Township Master Plan, a rear yard of at least 50 feet must be maintained.

**Sec. 10.06 MAXIMUM BUILDING HEIGHT**

Building and structures shall not exceed a height of 35 feet above grade.

**Sec. 10.07 LANDSCAPING**

Wherever an Industrial zone abuts an R-1 or R-2 zone or whenever an Industrial zone abuts a residential use such as a house in an Industrial zone a landscape area shall be provided as follows:

1. The landscape area shall be a minimum of 15 feet wide as measured from the property line.
2. For each 25 linear feet abutting the adjacent property, three trees shall be planted within the

greenbelt. Such trees shall be a mixture of evergreen, canopy and ornamental trees.

3. Required quantities of plant materials may be reduced by 50 percent for that area abutting the lot line if a fence, wall or earthen berm is used for all or part of the landscape area.

### **Sec. 10.08 SITE DEVELOPMENT STANDARDS**

The following development standards are designed to mitigate negative impacts on nearby properties and shall apply to all uses in the Industrial District.

1. Any material which is stored or kept outside and which faces or abuts a non-industrial use shall be screened by a solid fence or wall at least six feet in height and no material shall be stacked higher than the fence. Outdoor storage areas shall be located behind the front building line.
2. Industrial equipment on a site, including trucks, shall not be operated in a manner such that it produces noise above 75 decibels when measured at the nearest occupied residential dwelling unit.
3. Operations which involve the repair or storage of damaged vehicles shall immediately remove all fluids from such vehicles if there is evidence that leaking of fluids is occurring or could occur. This is necessary to minimize fire hazards and to prevent such fluids from contaminating ground water and surface water.
4. Any use permitted in the Industrial Zone shall not create a vibration which is discernible to off-site residents or occupants.
5. Dumpsters shall not be located within the front yard and shall be screened by a six feet high wall or fence.
6. All business shall be conducted in such a manner that any noise, smoke, dust, vibration, or like nuisance shall not adversely affect adjoining properties.
7. Structure Facade - At least eighty percent (80%) of that portion of a structure or building, be it a front, side, or rear, which faces a public street shall be finished with face brick, wood, glass, stone, or fluted cement block, or stucco-like material. In recognition of developing technologies in building materials, the Planning Commission may agree to approve other materials provided that they are compatible with surrounding properties, and further provided that such materials meet appropriate architectural, aesthetic, and safety concerns as may be provided for in any duly adopted Ordinances and/or Building and Fire Codes.

Additions to or renovations of buildings existing as of the date of the Section shall be subject to the requirements of this section. The Planning Commission or Zoning Administrator, as the case may be, shall have the authority to modify or waive these requirements or to extend them to the entire facade of the existing building.

In determining the facade requirements of this section, the following criteria shall be considered:

- a. The location of the addition or renovation relative to the existing building.
- b. The size relative to the existing building.
- c. The location of the existing building.
- d. Whether compliance with this Section will result in architectural consistency with the existing

building and improve the overall aesthetics of the building.

- e. The practicality of requiring compliance with this Section based on the design and structural integrity of the existing building.
- f. Whether modifications of the building will have a negative impact on the character, safety, and welfare of the neighborhood or surrounding area.

**Sec. 10.09 ADDITIONAL REGULATIONS**

1. Parking shall be provided in accordance with the requirements of Chapter 24.
2. Site plan review is required for all permitted uses and Special Land Uses.

## **ARTICLE 11**

### ***PRIVATE ROADS***

#### **Sec. 11.01 PURPOSE**

These regulations have been adopted to assure that:

1. Private roads are designed, constructed and maintained to assure the safe passage and maneuverability of private passenger service vehicles and emergency service vehicles in all seasons of the year.
2. Private roads are constructed of suitable materials to ensure safe passage.
3. Private roads are constructed so as to protect against or to minimize soil erosion and to prevent damage to the lakes, streams, wetlands, and natural environment of the Township.

#### **Sec. 11.02 EFFECT**

1. This ordinance shall apply to all private roads constructed from and after the effective date of this Ordinance.
2. Driveways and access easements that were existing before the effective date of this Ordinance shall be improved in a manner that complies with these regulations, when an existing driveway or access easement is extended, expanded or improved.

#### **Sec. 11.03 PRIVATE ROADS**

When private road development occurs in the Township and is not subject to the standards established under Act 591 of 1996, as amended, "Land Division Act", the following minimum private road standards shall apply. No person, firm, or corporation shall hereafter divide any land as hereinafter described without providing for public or permanent private easements for access to such divided lands with said private easements to conform to these minimum requirements:

1. Every structure hereinafter erected or moved shall be on a parcel abutting a public road, or an approved private road, and with access to the road to provide safe, convenient access for serving fire protection and any required off-street parking. No resultant lot from any land division shall have road frontage less than that required in the zone in which it is located.
2. All private roads shall be constructed in a good and workmanlike manner, upon, and parallel to, the centerline of a permanent right-of-way easement duly recorded with the County Register of Deeds. Rights-of-ways or easements, while not required to be dedicated, will be reserved for future dedication and preclude any development within this designated area. All plans as submitted for approval must show the private road easement including a legal description, the grades of the roads, and drainage facilities and structures, and typical cross section for construction.
3. All private roads shall have names approved by the Planning Commission, be consistent with the accepted County address numbering system and the County Road Commission requirements.
4. There shall be clear vision zone at corners of intersecting roads, or road junctions, consisting of a triangular area defined by the point of intersection of the right-of-way lines and the two points extended along such lines a distance of twenty-five feet from the point of intersection, and within

which area no obstruction to vision, excluding existing topography, shall be permitted from a height of two feet to eight feet above centerline elevation of abutting streets, except that not more than two trees with trunks of not more than thirty inches in diameter each, and clear of any branches for such heights may be located within such area; provided, however, that this section shall not prohibit the requirement of a greater clear vision area where such is necessary in view of permitted traffic, anticipated traffic volumes, or geographic conditions.

5. All private road easements shall meet the following requirements:
  - a. Unless otherwise specified in this Ordinance, easements shall be a minimum of sixty-six (66) feet wide. The Holton Township Planning Commission or its designated agent may require the additional width to the right-of-way easement to insure for adequate construction in specific situations.
  - b. A 10 foot wide utility easement shall be provided on both sides and adjacent to row line, for public utilities such as gas, phone, cable TV, water, etc. Any sanitary sewers placed in right-of-way shall be placed along the centerline of the easement.
  - c. The right-of-way easement width on curved portions of roads shall be the same as the tangent (or straight) portions.
  - d. The minimum distance between private road outlets on a single side of a public road shall be three hundred (300) feet.
6. All roads constructed shall be constructed so as to sufficiently control storm water run-off and permit effective water drainage and prevent soil erosion and shall have required storm water and soil erosion control permits. A drainage plan shall be submitted on a topographic map, indicating the manner in which surface drainage is to be dispersed. In no case shall runoff from a private road be diverted beyond the limits of that private road onto adjacent roads or property unless appropriate easements are provided.
7. Private roads shall be laid out to the greatest extent feasible to achieve the following objectives: (Listed below in order of priority, as it is recognized that some may not exist or may conflict with others on any given site).
  - a. Not on soils classified as "hydric" (wetland soils) by the USDA Soil Conservation Service.
  - b. Along fence rows or the edges of the open fields or other open spaces adjacent to any woodland.
  - c. Within marginal area of woodlands (note: marginal areas shall extend a maximum of two hundred (200) feet into the interior of said woodlands).
  - d. In locations least likely to impact scenic vistas, as seen from public roadways or waters.
8. A private road serving or to serve a minimum of one and a maximum of seven lots, parcels, or condominium units shall at a minimum meet the following standards:
  - a. Shall be located on a right-of-way easement at a minimum of sixty-six (66) feet wide.
  - b. Have a sand sub-base of not less than 12 inches from shoulder point to shoulder point,



compacted to 95 percent maximum unit weight, with a six inch base of 22A gravel, slag, stone, or approved aggregate from shoulder point compacted to 98 percent maximum unit weight.

- c. Have a finished six-inch gravel, slag, lime stone, or approved base of thirty-two (32) feet from shoulder point to shoulder point. See typical cross section drawing at the end of this article.
  - d. Be constructed over adequate culverts where necessary.
  - e. Any portion of the vertical road grade that exceeds 3 percent shall either be curbed or gutted through this 3 percent grade placed sixteen (16) feet from the centerline of road back to the curb. No portion of the road grades shall exceed 8 percent.
  - f. Any private road which terminates at a dead-end shall have a means for a vehicle turn around either by use of a cul-de-sac, having a minimum radius of fifty feet, or a continuous loop private road system.
9. A private road serving or to serve eight (8) or more lots, parcels, or condominium units shall at a minimum meet all of the design standards presented in 11.03 H. of this section and additionally the following:
- a. Bituminous concrete paving at a rate of 170#/SYD or 8 inch minimum thickness of concrete pavement 20 feet in width. (Note grade shall be determined by determining the differences in elevations at stations located at 100-foot intervals along the centerline of the final road grade).
  - b. If more than 25 lots have ingress/egress to a private road then a second means of ingress/egress meeting the requirements of this Ordinance (either a public road or an approved private road) shall be provided.
10. Construction permits from the Muskegon County Road Commission are required for connection to County Roads. Permits are required for the Soil Erosion and Sedimentation Control Act, P.A. 347 of 1974, MCLA 282.101 et seq., also a permit from the Muskegon County Drain Commission when applicable. No building permit shall be issued on any private road until such private road is given approval by the Planning Commission.
11. Application for road construction shall be made at the same time as a land division occurs creating a lot(s) without frontage on an existing public road. Application shall prepare a general property development plan complying with the requirements of the Ordinance or the Site Plan Review procedures. Prior to approval by the Planning Commission, the applicant will prepare and provide three (3) sets of:
- a. Engineered road construction plans.
  - b. Drainage plan.

**Sec. 11.04 ROAD MAINTENANCE**

Road maintenance agreement and deed registrations satisfactory to the Holton Township Planning Commission, signed by applicant/owner, providing for:

1. A method of initiating and financing of such road and/or easement in order to keep the road in a reasonably good and usable condition.
2. A workable method of apportioning the costs of maintenance and improvements to current and future users.
3. A notice that if repairs and maintenance are not made within six months of the date of official notice from the Holton Township Board, then the Board may bring the road up to Muskegon County Road Commission design standards and assess owners of parcels on the private road for the cost of all improvements, plus an administrative fee in the amount of twenty-five (25) percent of the total costs.
4. A notice that no public funds of the Township are to be used to initially build a private road.
5. Easements to the public for the purpose of emergency and other public vehicles for whatever public services are necessary.
6. 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, invitee, vendors, trades person, delivery persons, and other bound to or returning from any of the properties having a need to use the road.
7. No private road shall be incorporated in the public road system unless built to the specifications of the Muskegon County Road Commission for a public road.
8. Maintenance and deed restrictions are applicable to all persons owning land, which is contiguous to, or use said private road for ingress or egress.

#### **Sec. 11.05 ROAD APPROVAL**

The Holton Township Planning Commission shall have the authority to approve the plans of private road, or consult an engineer or designated Township Official. When road plans are approved by the Township Planning Commission, a letter of approval will be issued by the designated Township Official.

After approval of a private road by the Township Planning Commission, and before construction thereof is commenced, the applicant shall provide a financial guarantee assuring the proper and timely completion of said road with the Township. The financial guarantee shall be equal to the estimated costs of construction of said private road as determined by an Engineer or designated Township Official. Such financial guarantee may be cash, Performance Bond, or irrevocable bank letter of credit. The financial guarantee shall remain on deposit with the Township until all improvements have been installed in accordance with the approved plans and the Engineer or designated Township Official has certified his acceptance to the Township. Private road construction is to be completed within one (1) year of approval by the Township Planning Commission. Failure to complete private road construction within one (1) year shall render said approval null and void. The Engineer or designated Official will inspect and review the road during construction. Upon completion of construction of the road, a site inspection of the road will be made by the Engineer or designated Official who shall forward his/her recommendation to the Planning Commission who shall be responsible for granting final approval.

1. All private roads shall be designated as such and have a sign and name meeting Muskegon County Road Commission sign standards erected by the developer.
2. An application fee is to be established by the Holton Township Board. Before final approval, the cost of review of plans and inspection by the Engineer or designated Official of the private road and drainage shall be paid for by the applicant/developer. If it is necessary to hire an outside consultant, these costs shall be paid for by the developer.
3. All purchasers of property where a private road provides access to the premises shall, prior to closing of the sale, receive from the seller a notice of easement, in recordable form, substantially conforming to the following:

"This parcel of land has private road access across a permanent 66 foot easement which is a matter of record and a part of the deed. This notice is to make the purchaser aware that this parcel of land has record egress and ingress over this easement only."

4. Neither the Township nor the County has any responsibility for maintenance or upkeep of any improvement across this easement. This 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.)

**Sec. 11.06 VIOLATIONS AND PENALTIES**

Any person, firm or corporation who violates the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a penalty not to exceed One Thousand (\$1,000.00) Dollars or imprisonment in the Muskegon County Jail for a period not to exceed one hundred and eighty (180) days, or both such fine and imprisonment.

**Sec. 11.07 SEVERABILITY**

If any Section, paragraph, clause or provision of this Ordinance is, for any reason, held to be invalid or unconstitutional, the invalidity or unconstitutionality of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

**Sec. 11.08 CONFLICTING PROVISIONS**

Other Ordinances or part of Ordinances in conflict with this Ordinance, to the extent of such conflict and no further, are hereby repealed. The Private Road Ordinance for the Township of Holton, Muskegon County, Michigan, as amended, is specifically repealed in its entirety.

**Sec. 11.09 EFFECTIVE DATE**

This Ordinance shall take effect thirty (30) days following publication thereof as provided by the law.

**Adopted: May 12, 1998**  
**Published: June 11, 1998**  
**Effective: June 11, 1998**

**Sample Holton Township Private Road Permit**

Name and Address[s] of Owner[s]

## Property Identification

Provide the following attachments

Application Fee \$350.00 SUBJECT TO CHANGE

Scale drawing of site by certified Engineer Include

Survey of Road Right of Way

Layout and Design of Roadway

Location of Public Utilities

Location of Lakes, Streams, Wet lands, Contours of existing land and after grading. Existing drain fields.

Proposed Lot Layout

Road Maintenance Agreement

Approval of Land Divisions, Lot Splits

Performance Guarantee, Bond

Muskegon County Road Commission Permit

Muskegon County Drain Commission Approval

Muskegon Conservation District Approval

Holton Township Fire Department Approval

## **ARTICLE 12**

### ***DEFINITIONS***

For the purpose of this Ordinance, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future, words used in the singular number include the plural, and words in the plural number include the singular; the word "person" may be taken for persons, associations, co-partnership or corporation; the word "structure" includes buildings; the word "used" includes designed or intended to be used; and the word "shall" is always mandatory and not merely directive. Other words and terms shall have the following meanings.

**ACCESSORY BUILDING:** A subordinate building or structure on the same lot with a main building, or a portion of the main building, occupied or devoted exclusively to an accessory use.

**ACCESSORY USE:** A use naturally and normally incidental and subordinate to the main use of the premises.

**ADULT DAY CARE HOME:** A dwelling unit in which no more than six persons 18 years or older are provided supervision, personal care and protection for periods of less than 24 hours a day, operated by a person who permanently resides in the dwelling unit as a member of the household.

**ADULT FOSTER CARE FACILITY:** A governmental or non-governmental establishment having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Such facilities are licensed under Public Act 218 of 1979 as amended.

**ADULT FOSTER CARE CONGREGATE FACILITY:** An adult foster care facility with the approved capacity to receive more than 20 adults who shall be provided foster care.

**ADULT FOSTER CARE FAMILY HOME:** A dwelling unit with the approved capacity to receive not more than six adults who shall be provided foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the dwelling unit.

**ADULT FOSTER CARE LARGE GROUP HOME:** An adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults who shall be provided foster care.

**ADULT FOSTER CARE SMALL GROUP HOME:** An adult foster care facility with the approved capacity of not more than 12 adults who shall be provided foster care.

**ALTERATIONS, STRUCTURAL:** Any change in the supporting members of a building or structure such as bearing walls, columns, beams or girders, any substantial change in the roof, or an addition to or diminution of a structure or building.

**ARTERIAL STREET:** Streets where the movement of through traffic is the primary function; service to adjacent land uses is a secondary function.

**AUTOMOBILE REDUCTION:** The dismantling disassembling or storing of used motor vehicles, or trailer or their parts.

**BASEMENT:** That portion of a building with one or more walls which is partly or completely below grade

(see story above grade). A basement shall not be included as a story for height measurement, and shall not be counted as floor living area space. The term cellar shall be synonymous with basement.

**BREEZEWAY:** A covered structure connecting an accessory building with the principal use. For purposes of determining yard and area requirements a breezeway shall be considered as included within the definition of building or dwelling.

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

**BUILDING HEIGHT:** The vertical distance measured from the established sidewalk grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roof. Where a building is set back from the street line, the height of the building may be measured for the average elevation of the finished grade along the front of the building, provided such average elevation shall not exceed the established sidewalk grade at the center of the front of the building by more than one (1) inch for each front foot that the building sets back from the front line.

**BUILDING OFFICIAL:** That person or persons appointed as either Building Inspector or Ordinance Enforcement Officer, Zoning Administrator, or other persons as appointed from time to time.

**CAMPGROUND/SUMMER CAMP:** “Campground” and “Summer Camp” shall mean and include the temporary or permanent buildings, tents, or other structures, together with the appurtenances pertaining thereto, established or maintained as living quarters for children or adults, or both, operated continuously for recreation, education, or vacation purposes, on a commercial basis or for charity or religious purposes. The term “camp” shall not be construed to include buildings, tents, or other structures maintained by the owner or occupant or premises used exclusively to house his farm labor.

**CHILD CARE CENTER:** Any facility in which one or more children are given care and supervision for periods of less than 24 hours per day on a regular basis. Child care centers do not include Family or Group Day Care Homes, or schools. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall be considered accessory to such principal use and shall not be considered to be a child care center.

**CONDOMINIUM DEVELOPMENT:** A complex of structures used for residential, commercial or industrial purposes situated on land that is not subdivided into separate lots.

**CONDOMINIUM STRUCTURE OR BUILDING ENVELOPE:** The principal building or structure intended for or constructed upon a lot or condominium unit, together with any attached accessory structures. In a residential development, the condominium structure or building envelope refers to the house and any accessory buildings.

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

**CORNER LOT:** A lot located at the intersection of two or more streets where the corner interior angle formed by the intersection of the streets is 135° or less or a lot abutting upon a curved street or streets if tangents to the curve, at the two points where the lot lines meet the curve, form an interior angle of 135° or less.

**CURB CUT:** A gap in the curb along a street or road, affording vehicular access to the property.

**DEDICATION:** Transfer of property or roads to the public for a public purpose.

**DENSITY:** Density refers to the number of dwellings per acre of land.

**DRIVEWAY SPACING:** The distance between driveways along a street or road.

**DWELLING:** Any building, mobile home, pre-manufactured or pre-cut dwelling, structure designed and used in whole or in part as a home, residence or sleeping place, either temporarily or permanently, by one or more families, but not including motels, hotels, tents, tourist rooms.

**DWELLING, MULTIPLE-FAMILY:** A building or portion thereof, used or designated for use as a residence for three or more families living independently of each other and each doing their own cooking in said building. This term includes apartment buildings and townhouses.

**DWELLING, TWO FAMILY (DUPLEX):** A detached building used or designated for use by two families living independently of each other and each doing their own cooking in said building.

**DWELLING UNIT:** One room or suite of two or more rooms designed for use or occupancy by one family for living and sleeping purpose with housekeeping facilities.

**EASEMENT:** A grant of one or more of the property rights by a property owner to and/or for the use by the public, or another person or entity.

**EGRESS:** Traffic outlet from private property or buildings to public roadway, sidewalk and other common public areas.

**ENTRY AIRLOCK:** A well-insulated antechamber with an exterior entry door and a second interior door which when put into use assists in keeping outside air from entering the living space of a dwelling. This space is not considered for computation of living space.

**ESSENTIAL PUBLIC SERVICES STRUCTURES AND BUILDINGS:**

Buildings or structures owned and operated by public utilities or municipal departments and used for gas, electrical, steam, fuel, water or sewage treatment or disposal, electrical substations, sewage lift stations which are not located entirely underground, and similar structures or buildings necessary to furnish adequate service within the Township, but not including Essential Public Service Equipment.

Telecommunication towers and antennas and similar wireless communications facilities developed for private enterprise shall not be considered to be Essential Public Service Structures or Buildings.

**ESSENTIAL SERVICES:** The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electric, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, towers, mains, drains, sewers, pipes, conduits, cables, fire equipment, electric substations, gas regulator stations and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal or other governmental agency or for the public health or safety or general welfare.

**FAMILY:** A person living alone, or two or more persons who share blood or marital relationship living together in one or more housekeeping units in a single structure.

**FAMILY DAY CARE HOME:** A dwelling unit in which less than seven minor children are given care and supervision for periods less than 24 hours per day, operated by a person who permanently resides in the dwelling unit as a member of the household and who may or may not be registered with the State of Michigan to provide such care.

**FARM:** As defined by the Michigan Right to Farm Act, Act 93 of 1981 as it may be amended from time to time.

**FARM ANIMALS:** Those animals and fowl kept on a farm such as horses, cows, pigs, chickens, turkeys, sheep, ducks, geese and the like.

**FARM BUILDINGS:** Those buildings and structures accessory to the principal use of farming, agriculture, animal husbandry or related activities.

**FARM OPERATION:** As defined by the Michigan Right to Farm Act, Act 93 of 1981 as it may be amended from time to time.

**FARM PRODUCT:** As defined by the Michigan Right to Farm Act, Act 93 of 1981 as it may be amended from time to time.

**FENCES, SCREENS, BUFFERS:** Natural or constructed barriers to either minimize visual, sound and light which impacts upon adjoining land uses or to contain or exclude persons, property or animals.

**FLOODPLAIN:** The land area that is subject to seasonal or other periods of the overflow of water where filling or building is prohibited, except by permit issued by the Department of Natural Resources to preserve the area for storm water storage. The building in such area requires conforming to BOCA rules and regulations, Act 167 of the Public Acts of 1986.

**FLOOR AREA:** The sum of the gross horizontal areas of all floors of the building measured from the outside dimensions of the outside face of the outside wall building, interior faces of the exterior walls or from the centerline of common walls.

**FLOOR AREA - USABLE:** For 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 used to serve patrons, clients or customers. Usable floor area shall not include elevator shafts, stairwells, floor space used for mechanical and utility equipment, attic space having headroom of less than seven feet, or interior balconies or mezzanines.

**FRONTAGE ROAD:** A public or private drive which generally parallels a public street between the right-of-way and the front building setback line, providing specific access points to private properties while maintaining separation between an arterial street and adjacent land uses.

**GARAGE – PRIVATE:** An accessory building, attached to or detached from the residential structure, or a portion of a residential structure used for the storage of self-propelled passenger vehicles, trucks, trailers or any other personal property belonging to the occupants of the premises.

**GARAGE – COMMERCIAL:** A structure or portion thereof other than a private or municipal garage used for the storage, sale, hire or minor repair of self-propelled vehicles or trailers. Minor repairs shall include incidental body and fender work, painting and upholstering, replacement of parts and motor service to passenger automobiles and truck.



**GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES (GAAMP):** As defined by the Michigan Right to Farm Act, Act 93 of 1981 as it may be amended from time to time.

**GRADE PLAIN:** A reference plain representing the average of the finished ground level adjoining the building at all exterior walls.

**GREENBELT:** A natural or planted landscaped area consisting of trees, shrubs, bushes, and grasses designed to provide a visual and spatial buffer between land uses.

**GREENHOUSE:** A heated structure which is either attached or detached from the principal building and may be used for raising or sheltering plants and/or providing passive or active auxiliary heat for the main structure during times of cold temperatures. Greenhouse area shall not be computed as living space.

**GROUP DAY CARE HOME:** A dwelling unit in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours per day, operated by a person who permanently resides in the dwelling unit as a member of the household, and who may or may not be registered with the State of Michigan to provide such care.

**HOME OCCUPATION:** Any occupation which is customarily incidental to a dwelling and is conducted by a member of a family residing in the dwelling.

**HOTEL:** Any building where lodging with or without meals, is furnished to transient or resident guests for compensation, and containing more than four sleeping rooms, and having no cooking facilities in any individual lodging, but wherein a restaurant may or may not be located.

**HOUSING FOR THE ELDERLY & SENIOR CITIZENS:** A facility or multiple family building for persons 55 years or older or for those requiring extended care including nursing homes but not including a hospital, which either provides or offers a level of care to its residents required to be licensed by the State of Michigan or containing individual living resident rooms or dwelling units with or without separate cooking facilities.

**INFRASTRUCTURE:** The network of physical systems such as streets, water supply, sewage and storm drains that are essential in urban areas.

**INGRESS:** Traffic inlets from public roadways to private property or entrances to buildings or other facilities.

**INTENSIVE FARMING:** Agricultural operations which is likely to negatively influence non-agricultural uses through the emission of noise, odors or potential groundwater, soil and air contamination, such as, but not limited to, confined feeding of livestock.

**JUNKYARD:** A place where junk, waste, or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including wrecked vehicles, used building materials, structural steel materials and equipment and other manufactured goods that are worn, deteriorated, or obsolete.

**KENNEL:** Any place of breeding, training or boarding of dogs on which three (3) or more dogs, four (4) months old or older are kept.

**LIVING SPACE:** Enclosed winterized space which is defined as story above grade, occupied in whole or part as a home, residence, living or sleeping place for human beings excluding non-habitable and non-winterized porches, breezeway, sun spaces and greenhouses and entry airlocks. Basements are excluded in

requirement for this Ordinance. Living space of living space shall be the sum of the gross horizontal areas of several floors of the building measured from the exterior faces of the exterior walls or from the center line of the wall separating two buildings. Where walls are other than perpendicular to the horizontal floor surface, in the case of A-frame or attics, the sum is the area within the confines of the lines which are perpendicular to the floor and at a minimum height of eight (8) feet on the first floor and seven (7) feet on any other floor.

**LOT:** A division of land separated from other land by description on a recorded plat or by metes and bounds description, including a site condominium; having frontage upon a public or private street and having sufficient size to comply with the requirements of the Zoning Ordinance for minimum area, setbacks, coverage, and open space.

**LOT AREA:** The total area of a horizontal plane within the lot lines of a lot, exclusive of any public street right-of-way abutting any side of the lot.

**LOT COVERAGE:** That part or percent of a lot occupied by principal buildings and accessory buildings.

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

**LOT, DOUBLE FRONTAGE:** Any lot, excluding a corner lot which fronts on two streets which do not intersect.

**LOT, INTERIOR:** A lot which has frontage on only one street.

**LOT LINE, FRONT:** The lot line separating a lot from a street right-of-way, private road, or other thoroughfare.

**LOT LINE, REAR:** The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregular shaped lot or parcel, an imaginary line ten feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line. In the event that none of these definitions are applicable, the Zoning Administrator shall designate the rear lot line.

**LOT LINE, SIDE:** Any lot line other than a front or rear lot line.

**LOT WIDTH:** The horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback line.

**MASTER DEED:** The legal document prepared and recorded pursuant to Act 59 of the Public Acts of 1978, as amended, within which are, or to which is attached as exhibits and incorporated by reference, the approved bylaws for the project and the approved condominium subdivision plan for the project.

**MASTER PLAN:** The plan prepared and adopted by the Township Planning Commission and the Township Board under the provisions of Act 1 and the Public Acts of Michigan of 1, as amended.

**MOBILE HOME:** A moveable or portable dwelling constructed to be towed on its own chassis, connected to utilities and design without a permanent foundation for year-round living as a single family dwelling. Pre-manufactured or pre-cut structures designed for complete living accommodations of a single family are also included in this definition of mobile homes. A mobile home may contain parts that may be combined, folded, collapses, or telescoped when being towed and expanded later to provide additional cubic capacity.

**MOBILE HOME LOT:** A measured parcel of land within a mobile home park which is delineated by lot lines on a final development plan and which is intended for the placement of a mobile home and the exclusive

use of the occupants of such mobile home.

**MOBILE HOME PARK:** A parcel of land under single ownership which has been planned and improved for the placement of mobile homes on a rental basis for non-transient use.

**MOBILE HOME SUBDIVISION:** A mobile home park except that the mobile home lots are subdivided, surveyed, recorded, and sold in accordance with Michigan Act 288 of 1967, as amended.

**NON-CONFORMING USE:** A use which lawfully occupied a structure or land at the time of adoption of this Ordinance, or any amendment thereto, and which does not conform with the use regulations of the district in which it is located.

**NONCONFORMING BUILDING OR STRUCTURE:** A structure or building lawfully constructed that does not conform to the requirements of the district in which it is situated.

**NURSING HOME:** A convalescent or nursing home is a facility for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, wherein four or more persons are cared for. Said facility shall conform to, and qualify for license under, applicable State laws.

**OCCUPIED:** The word "occupied" includes arranged, designed, built, altered, converted to, rented, or leased.

**OPEN AIR BUSINESS:** A business, a substantial part of which involves activities or the display and sale of goods outside of a building, including motor vehicle and boat sales, mobile home sales, lawn and garden centers, golf driving ranges, and similar uses.

**OPEN SPACE:** Land area that has not been developed. Usually refers to land in the countryside but may be used to include parks, underdeveloped areas in other large projects.

**PARALLEL ACCESS:** Private driveways or public roads running parallel to a public street, providing access to parcels or lots at specific points.

**PARCEL:** A division of land comprised of one or more lots in contiguous ownership.

**PARKING SPACE:** The area required for parking one automobile, which in this Ordinance is held to be ten (10) feet wide and twenty (20) feet long, excluding drive, passageways, or roadway shoulder space.

**PLAT PLAN:** A plat plan is a plan drawn by a civil engineer to scale, depicting the subdivision of a parcel of land into smaller parcels along with any necessary streets or roads, for the purpose of sale or development.

**PRINCIPAL USE:** The primary or predominant use of the premises.

**PRIVATE ROAD:** Any road or thoroughfare for vehicular traffic which is privately owned and maintained and which provides the principal means of access to abutting property.

**REASONABLE ACCESS:** A property owner's legal right, incident to property ownership, to access a public road right-of-way. Reasonable access includes indirect access via frontage roads, service drives, or shared driveways.

**REAR ACCESS DRIVE:** Driveways which provide access to properties from the rear of principal structures, such as behind shopping centers, down towns, or commercial corridors.

**RIGHT-OF-WAY:** The property occupied by an alley, street, highway, or other thoroughfare or easement

permanently established for passage of persons or vehicles.

**SETBACKS:** The minimum unoccupied distance from a front, side, or rear property boundary, and the principal and accessory buildings on the property.

**SETBACKS - FRONT, SIDE, AND REAR YARDS:** Front, side and rear yard setbacks shall mean the distance measured for the respective front, side and rear yard lines associated with the "condominium structure" or "building envelope" to the respective front, side and rear of the lot.

**SHARED ACCESS:** Use of one access point onto a public roadway by multiple parcels.

**SIGNS AND BILLBOARDS:** Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product, and which is visible from any public right-of-way.

**SITE CONDOMINIUM:** A division of land on the basis of condominium ownership, which is not subject to the provisions of the Subdivision Control Act, P.A. 288 of 1967, MCLA 560.101 et seq.

**SITE CONDOMINIUM SUBDIVISION PROJECT.** A condominium project developed under Public Act 59 of 1978, as amended, comprising of more than two condominium units which is not subject to the provisions of the Subdivision Control Act, Public Act 288 of 1967, as amended.

**SITE PLAN:** A document or drawing that presents information showing what an applicant wants to do on a parcel of land. It shows existing and proposed manmade structure as well as natural characteristics and features of a site. It is drawn to scale and is in specific detail including but not limited to, topographic, hydrologic, etc., and are for larger projects which have significant impact on the area.

**SKETCH PLAN:** A sketch plan is a drawing informally made and not to scale that are inadequate for most land and building permits except for very minor accessory buildings.

**STABLE – PRIVATE:** A building where not more than three (3) horses are kept.

**STABLE – PUBLIC:** A building where horses for hire, sale or boarding are kept.

**STORY ABOVE GRADE:** Any story having its finished floor surface entirely above grade except that a basement shall be considered as a story above grade when the finished surface or the floor above the basement is:

1. More than 6 feet (1829 mm) above grade plane;
2. More than 6 feet (1829 mm) above the finished ground level for more than 50 percent of the total building perimeter; or
3. More than 12 feet (3658 mm) above the finished ground level at any point.

**STREET:** A public or private way, square or lane permanently open to common and general use, which affords the principal means of access to abutting property.

**STRUCTURE:** Anything constructed or erected which required permanent location on the ground, in the ground, or attachment to something having such location.

**STRUCTURAL ALTERATIONS:** Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

**SOLAR HEAT GAIN AREA:** A structure built with one or more walls and/or ceiling of such materials as to allow the collection of heat from the sun as an auxiliary home heating source. The area involved is not to be computed as dwelling living space unless it is winterized and habitable twelve (12) months of the year.

**SOLAR HEAT AND/OR SOLAR POWER INSTALLATIONS:** Those structures engineered and constructed so as to maximize the collection of the sun's heat or energy so as to provide a source of auxiliary home heating power or to convert the energy of the sun's rays into electricity for auxiliary dwelling power.

**SUBTERRANEAN, UNDERGROUND OR BELOW GROUND DWELLINGS:** A dwelling that is partially or wholly surrounded by earth on no more than three (3) sides and with or without the roof being covered by earth, and which is to be used as an occupied dwelling according to the district regulations.

**SUN SPACES.** Those structures so designed and so constructed as to provide space maximally lighted and heated by the sun. This space is not to be considered for computation as living space of a dwelling unless it is winterized and habitable twelve (12) months of the year.

**TOPOGRAPHICAL MAPS:** A map showing existing physical characteristics, with contour lines at two (2) foot intervals to permit determination of proposed grades and drainage.

**TRAVEL TRAILERS:** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding ten (10) feet.

**VARIANCE:** A relaxation of the terms of the zoning ordinance by the Zoning Board of Appeals; and where such variance will not be contrary to the public interest; and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

**YARD:** An open space, on the sale lot with a principal dwelling, unoccupied and unobstructed from the ground upward by a building or structure, except as otherwise permitted in this Chapter and as defined herein.

1. **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 point of the foundation. There shall be a maintained front yard on each street side of a corner lot.
2. **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 point of the foundation of the main building. In the case of corner lots, there shall only be one rear yard, which shall be determined by the owner.
3. **SIDE YARD:** An opening 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 line to the nearest point of the foundation of the main building.

**YARD SALE:** An on-site roadside sale of new and/or usable household goods, equipment and personal possessions to the passing public covering one (1), three (3) day sale a maximum of three (3) times during a year. The owner shall comply with all applicable State, County and local laws and regulations.

#### RULES APPLYING TO TEXT

The following listed rules of Construction apply to the text of this Ordinance:

1. The particular shall control the general.
2. With the exception of this Chapter, the headings which title a chapter, section or subsection are for convenience only and are not to be considered in any construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.
3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
4. Unless the context clearly indicated to the contrary, (1) words used in the present tense shall include the future tense; (2) words used in singular number shall include the plural number, and (3) words used in the plural number shall include the singular number.
5. A "building" or "structure" includes any part thereof.
6. The word "person" includes a firm, association, partnership, joint venture, corporation, trustee, or equivalent entity or a combination of any of them as well as a natural person.
7. The words "used" or "occupied", as applied to any land or building shall be construed to include the words "intended", "arranged", or "designed to be used", or "occupied".
8. Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

**ARTICLE 13**  
***SUPPLEMENTARY PROVISIONS***

**Sec. 13.01 FUTURE USE OF LAND AND PREMISES, AND FUTURE LOCATION, ERECTION AND USE OF BUILDINGS AND STRUCTURES**

Following the effective date of this Ordinance, all land and premises, and all buildings and structures shall be located, erected and used in conformity with the provisions of this Ordinance relating thereto, except as provided by Section 1.03.

**Sec. 13.02 CONDEMNED BUILDINGS**

The provisions of the 1997 Uniform Code for the Abatement of Dangerous Buildings, as amended, shall apply.

**Sec. 13.03 GENERAL LAND AND YARD REQUIREMENTS**

13.03A Area Limitations:

In conforming to land and yard requirements, no area shall be counted as accessory to more than one dwelling or main building.

13.03B Dwelling Per Lot:

Every dwelling hereafter erected shall be located on a lot or premises, the description of the boundaries of which are on record at the Register of Deeds office, and no more than one dwelling shall be erected on such lot or premises.

13.03C Accessory Buildings:

All accessory buildings, including breezeways, shall be considered a part of the main building in determining yard requirements.

13.03D Water Front Lots or Premises:

The boundary of any lot or premises abutting a lake, stream or other body of water, shall constitute the front lot line for the purposes of this Ordinance.

**Sec. 13.04 SUBSTANDARD DWELLINGS**

For the express purpose of promoting the health, safety and general welfare of the inhabitants of the Township, and of reducing hazards to health, life and property, no substandard structure shall hereafter be erected or moved upon any premises and used for dwelling purposes.

**Sec. 13.05 WATER SUPPLY AND SEWAGE DISPOSAL FACILITIES**

13.05A Standards:

Every building and structure hereafter erected or moved on any premises and used in whole or in part for human occupancy or frequently shall be provided with a safe and sanitary water supply and a method or system of sewage disposal erected and maintained in accordance with the standards of material and installation of the Muskegon County Health Department.

13.05B Standard Sewage Disposal Conditions:

Where soil conditions are inadequate to serve a safe septic tank sewage disposal system, and special means of sewage disposal must be provided to safeguard health conditions, no Certificate of Approval for erection

of a building intended for human occupancy shall be issued except upon written approval of Muskegon County Health Department which approval shall be filed with the application for such Certificate.

### **Sec.13.06 USES BY SPECIAL PERMIT**

#### **13.06A Purpose of Special Use Permit.**

Uses allowed only by special use permit have been identified as those which, because of their nature, are not necessarily appropriate at all locations throughout a zoning district, or are appropriate only if subject to special conditions. The purpose of this chapter is to provide standards and procedures for reviewing requests for special use permit, and for placing conditions upon such permits. Special uses are permitted in each zoning district. An applicant for a special use permit must additionally comply with all other applicable regulations of Holton Township including a building permit.

#### **13.06B Special Use Permit Procedure.**

Application for a special use permit shall be submitted and processed under the following procedures:

1. An application shall be submitted to the Township Zoning Administrator or such person as designated by the Township Board on a form for that purpose. Each application shall be accompanied by the payment of a fee as determined by resolution of the Township Board.
2. **Site Plan Requirement:** Site plan approval is required for a special use permit. Applications for a special use permit shall therefore also be accompanied by nine copies of a site plan which shall contain the information for final site plans required by Article 19 herein. The application materials shall then be forwarded to the Planning Commission.
3. **Additional Information:** The Planning Commission may also require that the applicant provide additional information about the proposed use. Such information may include but shall not be limited to the provision for public or private utilities, traffic impact analysis, environmental impact statement, an economic analysis justifying the need for a proposed commercial use or uses, and the impact on public utilities.
4. **Public Hearing:** Prior to making a decision on a special use permit request, the Planning Commission shall hold a public hearing. Notification of the hearing shall be in accordance with Article 16.01C herein.

#### **13.06C General Standards.**

To approve a special use, the Planning Commission must find that all the following general standards are satisfied, in addition to any applicable standards set forth in this Ordinance for specific special uses:

1. The special use shall be established, designed, and operated so as not to have a substantial adverse effect upon adjoining or nearby lands or any of the uses thereof, and shall be compatible with the character of the area in which the special use is proposed.
2. The special use must not have a substantial adverse effect on road capacity, volume of traffic, traffic safety and circulation, and pedestrian safety
3. The special use shall be adequately served by essential public facilities and services such as police, fire protection, drainage structures, and refuse disposal, water and sewage facilities.
4. The special use shall not involve uses, activities, processes, materials and equipment or conditions



of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

5. The special use must not have a substantial adverse effect on the natural environment of the site and nearby properties.
6. The special use must be consistent with the intent and purposes of this ordinance and the Holton Township Master Plan.

#### 13.06D Decision.

Following a public hearing, the Planning Commission shall either grant or deny a permit. The decision on a special use permit shall be incorporated in a written statement of findings and conclusions which specifies the basis for the decision and any conditions imposed. All conditions, limitations, and requirements upon which any such permit is granted shall be specified in detail by the Planning Commission in its decision and shall be filed with the Zoning Administrator of the Township. Decisions shall be kept on file with the Township.

#### 13.06E Existing Violations.

A special use permit shall not be issued for a new use or a structure on property where any violation of this ordinance exists.

#### 13.06F Conditions of Approval.

The Planning Commission may impose reasonable conditions on the approval of a special use. Conditions may include but are not limited to items related to drainage, soil erosion, pedestrian and vehicle movement, safe site design, fencing, screening, landscaping, loading, parking, lighting, signs, and hours of operation. Said conditions shall meet the following requirements:

1. Be designed to insure public services and facilities affected by the proposed use or activity will be capable of accommodating increased service and facility loads caused by the proposed use.
2. Be designed to insure that said use is compatible with adjacent land uses and activities.
3. 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.
4. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
5. 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.
6. The conditions imposed with respect to the approval of a special use shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions which are changed.

#### 13.06G Expiration of Permit.

A special use permit shall be valid upon approval by the Planning Commission. The special use permit however shall expire one year from the date of Planning Commission approval if actual construction of a

substantial portion of the improvements included in the approved special use permit and site plan have not commenced and proceeded meaningfully toward completion during that period

1. Upon written application filed prior to the termination of the one-year review period, the Planning Commission may authorize a single extension of the time limit for approval of a special use permit for a further period of not more than one year. Such extension shall only be granted based on evidence from the applicant that there is a likelihood of construction commencing within the one-year extension.

#### 13.06H Amendment to an Approved Special Use Permit.

Any person owning or operating land for which a special use permit has been approved shall notify the Zoning Administrator of any proposed amendment to the approved special use, any conditions attached to the approval of the special use permit and site plan. Any proposed change to the conditions that were attached to the approval of the special use permit or any proposed change to the special permit use itself shall be reviewed by the Planning Commission, which shall determine if the proposed changes constitute a major or minor change.

A major change is defined as a change in the conditions of approval for the special use permit which would substantially alter the intensity of the use of the property so as to call into question compliance with the special use permit approval standards of Section 13.06C herein.

Examples of a major change may include but are not limited to a substantial increase in the hours of operation, a substantial expansion of the land area devoted to outdoor activity, a substantial increase in the number of items displayed or stored outdoors, an increase in the intensity of the use which would substantially increase traffic or a change in the conditions of approval which may result in a substantial adverse impact on nearby residents or property.

In addition, a major change would also include expanding the land area that was approved for the existing special use permit and expanding the building containing the use if such expansion would increase the intensity of the use.

Any major change shall be considered in the same manner as set forth in Section 13.06B of this Ordinance which would require a public hearing. A minor change requested for a special use permit may be approved by the Planning Commission without a public hearing.

If the requested changes apply only to a component of an approved site plan which is part of an approved special use, the requirements of Section 13.06H herein (Amendment to an Approved Site Plan) shall apply.

#### 13.06I Validity of Permit.

Planning Commission approval of a special use permit shall be valid regardless of change of ownership of the parcel(s) receiving the special use permit, provided that all standards and conditions are complied with by any subsequent land owner.

If a use authorized by a special use permit ceases for a period of one year the special use permit shall be considered to be voided and the use shall not be re-established except in accordance with the procedures in Article 13.06B herein.

#### 13.06J Revocation of Permit.

If a violation of any of the conditions or standards imposed on a special use permit is found following inspection, the Zoning Administrator shall notify the owner of the premises of the special use permit and the Planning Commission that such violation exists and that the permit may be revoked if the violation is not corrected.

If said violation is not corrected the Planning Commission may revoke the permit following a public hearing

noticed in accordance with the requirements of 16.01C herein. Furthermore, such a violation is hereby declared to be a violation of the Zoning Ordinance, subject to all of the remedies and penalties provided for in this Ordinance.

**Sec. 13.07 PUBLIC UTILITY STRUCTURES**

No person or persons, firm, partnership, corporation, municipality, or other legal entity, acting alone or with others, either by direct employment or contract, may erect, construct, alter, or maintain a utility, or conduct any stage of process or what is known as a utility, without first obtaining a permit to perform the desired activity.

A "utility" shall include but not be limited to, gas, electrical, steam or water, distribution or transmission system, collection, communication, supply and disposal systems, sewage treatment, or sewage disposal operations or systems. The term shall include land, buildings, equipment, machinery fixtures, as well as processes, procedures or activities being constructed, maintained or operated in Holton Township.

Such legal entity who desires to conduct any of the above described activities shall first apply to the Planning Commission, which must make a recommendation to the Township Board, who must also review such application and the recommendations of the Planning Commission. The Township Board may grant or deny the permit, or may set such conditions as it deems just and necessary for the protection of the health, safety, and welfare of its residents, as it sees fit prior to the issuance of such permit.

In the event the permit contains such reasonable conditions the applicant shall agree in writing to same and be bound by same as well as its successors, assigns, heirs, agents, employees, or contractors. In the event of a breach of any conditions, the "utility" shall immediately cease such offensive operation, and appear within ten days before the Township Board to give evidence why the permit shall not be canceled.

**Sec. 13.08 FARM BUILDINGS AND STRUCTURES**

The provisions of this Ordinance shall not apply to farm buildings and structures customarily erected and used in agricultural activities in the township, except farm dwellings, provided, that no buildings shall be erected less than 40 feet from any abutting roadway right-of-way line, and not less than 16 feet from an interior property line.

**ARTICLE 14**  
***MOBILE HOME PARK OVERLAY DISTRICT, MHP***

**Sec. 14.01 PURPOSE**

The "MOBILE HOME PARK OVERLAY DISTRICT" allows the development of medium to high density residential environments that are consistent with and promote the general health, safety, welfare and convenience of the citizens residing in mobile homes. "MHP", Mobile Home Parks, should be located where it will be more economical and efficient to provide Township services and infrastructure needs and shall be located as designated in the Mobile Home Park Overlay Map.

**Sec. 14.02 PRINCIPAL PERMITTED USES**

1. Mobile Home Parks
2. Essential Services

**Sec. 14.03 GENERAL REQUIREMENTS**

All Mobile Home Parks ("MHP") shall comply with the Mobile Home Commission Act, Public Act 96 of 1987 as amended and any amendatory acts and regulations that become applicable from time to time.

**Sec. 14.04 LOCATION AND CONSIDERATIONS FOR MOBILE HOME PARKS**

Mobile home parks shall be located in one or more of the following residential areas located in the designated portion of:

1. The North 1/2 of the South 1/2 of Section 22 including all the land South of Syers Road;
2. The South 1/2 of Section 23;
3. The West 1/4 of Section 26;
4. Section 27 East of M-120;
5. The South 1/2 of Section 28;
6. The South 3/4 of Section 33, excluding the East 1/2 of the South East 1/4 and the South West 1/4 of the South West 1/4;
7. And, Section 34, excluding the South West 1/4 of the South West 1/4.

**14.04A Land Use Compatibility:**

The location of such a Mobile Home Park will be compatible with surrounding existing land uses or zoned uses and the existing land uses or zoned uses will not adversely affect the living environment of the proposed Mobile Home Park.

**14.04B Traffic Conditions:**

The proposed "MHP" shall not create traffic hazards or conflicts with existing traffic patterns of those official

traffic arteries or patterns proposed for future development by the Township, County of Muskegon or State of Michigan. "MHP" shall not generate traffic through minor residential street systems, but rather, shall provide access to major, secondary or collector streets.

14.04C Natural Resource Considerations:

The mobile home park shall meet all requirements for sewage, drainage and water supply systems as determined by the Michigan Department of Health. Locations in flood plains and flood zones shall meet the standards as determined by the Department of Natural Resources.

**Sec. 14.05 ACCESSORY USES**

Such accessory uses customarily incidental to the permitted use including:

1. Solid waste collection and storage facilities.
2. Laundry and restroom facilities.
3. Where fifty (50) or more sites are proposed, at least two (2) percent of the gross acreage but not less than twenty-five thousand (25,000) square feet shall be reserved as open space.
4. Meeting rooms, group kitchens and food service facilities for the "MHP" when designed solely for the use of residents of the development.
5. Maintenance and storage buildings when designed solely for the operation and maintenance of the mobile home park.
6. Park offices and residential quarters for the mobile home park manager or his agent.

**Sec. 14.06 LOT AREA AND DIMENSIONS**

No mobile home park shall contain less than fifteen (15) acres in total area, nor more than forty (40) acres for maximum mobile home park size. There shall be no less than three hundred (300) feet landscaped frontage area along an improved major, secondary or collector road or street of public record.

14.06A Frontage Area Requirements:

This frontage area will be a minimum of forty (40) feet deep along State highways and thirty (30) feet deep along County and local roadways excluding the highway/roadway right-of-ways.

**Sec. 14.07 INFRASTRUCTURE NEEDS**

Where additional infrastructure needs are required as determined by the Township to properly service the proposed mobile home park, the costs associated with establishment and continued maintenance shall be borne by the owner of the mobile home park.

## **ARTICLE 15**

### **ADMINISTRATION**

#### **Sec.15.01 ZONING OFFICIAL**

The provisions of this Ordinance shall be administered by a Zoning Official who shall be appointed by the Township Board for such term and subject to such conditions as the Township Board deems desirable to carry out the terms of this Ordinance. He shall hold office at the pleasure of the Township Board, and shall receive such compensation as shall be determined by the Township Board.

#### **Sec.15.02 APPLICATION AND CERTIFICATE APPROVAL**

##### **15.02A Application:**

Before proceeding with the erection (alteration), moving (into or out of the township), or use of any building or structure, or the use of any premises subject to the provisions of this Ordinance, the owner thereof shall first obtain a certificate of approval from the Zoning Administrator. Application therefore shall be made in writing upon forms provided by the Township. It shall be the duty of all architects, contractors and other persons having charge of erection or movement to determine that proper Certificate has been issued before undertaking any such work; and all persons performing such work in violation shall be deemed guilty of violation in the same manner as the owner of the premises.

##### **15.02B Issuance of Compliance Permit:**

If the Zoning Administrator finds the application conforms to the requirements of this Ordinance and other applicable law, he shall mark all copies approved over his signature and date. One copy shall be filed with Zoning Administrator; one copy returned to the applicant; and one copy sent to the building inspector. Such permit shall be valid for twelve months from the date of issue, but may be renewed subject to the terms of the Ordinance then in effect. The Zoning Administrator shall have the power to revoke any Certificate in case of failure or neglect to comply with any provisions of this Ordinance, or in case of false statement or misrepresentation made in the application. The owner of the premises shall be notified of such revocation.

##### **15.02C Fees:**

For each Certificate of Approval issued, the following shall be paid on application to the Zoning Administrator for deposit with the Township Treasurer in a Township Zoning Fund which shall be used solely for the administration of this Ordinance, as directed by the Township Board. No Certificate shall be valid until the required fee has been paid. No separate fee shall be required for accessory buildings or structures when applied for at the same time as the principal buildings of the premises. No fee shall be required for accessory buildings or structures with a construction size of less than 200 sq. ft. No fee shall be required after a special use permit/site plan review has been processed. The fees will be set by the Township Board.

#### **Sec.15.03 ZONING BOARD OF APPEALS**

There is hereby created a Zoning Board of Appeals which shall perform its duties and exercise its powers as provided by Act 110 of the Public Acts of 2006, as amended, and by the provisions of this Ordinance. It shall have the power in passing upon appeals to vary or modify any provisions of this Ordinance or decision of the Zoning Administrator or other administrative agent, so that the spirit of this Ordinance is observed, safety, sanitation and protection is secured and substantial justice done.

##### **15.03A Members; Appointment**

Members shall be appointed by the Township Board, provided that no elected officer of the Township shall serve as Chairman of the Board of Appeals and that one member of such Board of Appeals shall be a member of the Planning Commission; one member may be a member of the Township Board; and, one member shall be chosen from the public at large and shall not be an elected official or a member of the Planning Commission.

At its option, the Township Board may appoint two alternate members to serve when required due to the temporary absence from a required meeting of an above mentioned permanent member. When required, the Chairperson shall request the alternate's presence in the order of first chronological date of selection. Terms shall be three years with each start of a term considered a new appointment date.

The Township Board shall provide for the removal of a member of the Zoning Board of Appeals for misfeasance, malfeasance in office upon written charges and after public hearing.

#### 15.03B Terms

All members shall be appointed for a term of three (3) years, provided that each member shall serve until his successor is duly appointed.

#### 15.03C Board of Appeals; Compensation

Members of the Board of Appeals may be paid compensation in an amount determined by the Township Board and may be paid their necessary expenses in the performance of official duties.

#### 15.03D Board of Appeals; Officers

A chairman and vice-chairman shall be elected from among the members, and a secretary shall be appointed who need not be a member of the Board of Appeals.

#### 15.03E Board of Appeals; Powers

The Board of Appeals shall have and exercise the following powers:

1. To adopt rules of procedure Sovereigns the transaction of its business.
2. To hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcing the provisions of this Ordinance.
3. To order the issuance of permits for buildings.
4. To decide questions concerning the exact location of district boundary lines.
5. Decisions regarding special land uses shall not be appealed to the Board of Appeals.
6. The Board of Appeals shall not grant a use variance. For purposes of this section a use variance is defined as allowing a use in any zoning district in which such use is otherwise not permitted by this Ordinance.

#### 15.03F Variances

The Board of Appeals shall further have the power to order the issuance of dimensional variances.

1. **DIMENSIONAL VARIANCE:** A dimensional variance from standard established in this Ordinance may be granted in the discretion of the Board of Appeals to allow a modification from such standard establishing area, yard, height, floor space, frontage, setback, or similar restriction but only after substantive evidence establishes that there are "practical difficulties", or "unnecessary hardships" in carrying out the strict letter of this Ordinance. They shall be granted only when they are in harmony with the general purposes and intent of this Ordinance and only after consideration of the following factors:
  - a. How substantial the variance is in relating to the Zoning requirements;
  - b. The effect, if the variance is allowed, of the increased population density thus generated on available governmental facilities;
  - c. Whether a substantial change will be affected in the character of the neighborhood or a substantial detriment created for adjoining properties;
  - d. Whether the difficulty can be eliminated by some feasible method, other than a variance;
  - e. Whether, in view of the manner in which the difficulty arose, and considering all of the above factors, the interests of justice will be served by allowing the variance; and
  - f. The plight of the landowner is due to the circumstances unique to his property not created by the landowner.

#### 15.03G Hearings and Appeals

1. Appeals may be taken by any person affected, including Township Board, or by an officer, department, board or bureau of the Township. Such appeal shall be taken within thirty (30) days from the entry of the decision in the Township records, by filing with the Board of Appeals a notice of appeal specifying the grounds thereof.
2. **HEARING AND NOTICE:**
  - a. When a request for a variance has been filed in proper form with the Board of Appeals, a public hearing shall be held on the request. The hearing shall be held within a reasonable period of time following receipt of the completed application. Notice of the public hearing shall be made in accordance with the requirements of Section 16.01C herein.
  - b. A decision shall be made within thirty (30) days of the public hearing unless a longer time period is agreed to by the Board and the applicant. The decision of the Board shall be provided to the applicant in writing.
  - c. For a request seeking an interpretation of the Zoning Ordinance or an appeal of an administrative decision, a notice of a public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person seeking the interpretation or appeal not less than 15 days before the public hearing.

In addition to the newspaper notice required by the above paragraph, if the request for an



interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and notice of the public hearing on the interpretation request shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

3. **DECISIONS BY THE BOARD OF APPEALS:** The decision of the Board of Appeals shall be final, and any party aggrieved by any such decisions may appeal to the Circuit Court. The records of the Board of Appeals shall be made for the courts review. Such appeal shall be filed within thirty days after the Board of Appeals certifies in writing or approves the minutes of the decision. For purposes of determining who constitutes an "aggrieved party", it shall be deemed to include an applicant, the municipal body or a subdivision of the same, a person who resides within three hundred (300) feet or a person who appeared at the hearing and spoke in opposition to the position taken by the Board of Appeals.

## **ARTICLE 16**

## ***AMENDMENTS***

Amendments or supplements to this Ordinance may be made from time to time, in the same manner as provided by Act 110 of the Public Acts of 2006 as amended for the enactment of the original Ordinance. It shall be necessary to publish only the section or sections to be amended in or added to the Ordinance.

### **Sec. 16.01 PROCEDURE**

#### **16.01A Initiation:**

Proposals for amendments or supplements may originate with the Township Board, with the Planning Commission, or by written petition signed by no less than fifteen percent registered voters. Petition by property owners shall show the address of each signer wherein located.

#### **16.01B Reference to Planning Commission:**

Each proposed Zoning Ordinance amendment or supplement shall be referred to the Planning Commission for its consideration and recommendation to the Township Board in accordance with the requirements of Act 110 of Public Acts of 2006 as amended.

After receiving such recommendation the Township Board shall consider the proposed amendment. The Township Board may hold a public hearing if the Board considers it necessary. Upon request of any property owner by certified mail to Clerk the Board shall hold a public hearing.

Notice of a hearing held by the Township Board shall be made in accordance with the requirements of Section 16.01C herein.

The Board may refer any proposed amendments back to the Planning Commission for consideration and comment within the time period specified by the Board. Following this the Board shall vote on the adoption of the Zoning Ordinance request with or without amendments as proposed by the Planning Commission.

#### **16.01C Public Hearing Notification:**

All applications for development approval for which a public hearing is required by this Ordinance shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006 as amended and the following provisions of this Section with regard to public notification.

1. Responsibility for Public Notice: The Clerk or their agent shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Holton Township and mailed or delivered as provided in this Section.
2. Notice Requirements: Notice of a public hearing for a rezoning, special land use, text amendment, planned unit development; variance, appeal, or ordinance interpretation shall be given not less than 15 days before the date of the public hearing. The notice shall be given as follows.
  - a. Newspaper Notice: The notice shall be published in a newspaper that circulates in Holton Township.
  - b. Mail and Personal Notice: Except for an Ordinance text amendment and an Ordinance interpretation which does not apply to a specific property, notice shall be sent by first class mail or personal delivery to:
    - 1) The owner of property for which approval is being considered, and the applicant, if different than the owner[s] of the property.

- 2) Except for rezoning requests that are proposed for 11 or more adjacent parcels, the notice shall be sent by first class mail or personal delivery to all persons to whom property is assessed within 300 feet of the boundary of the property 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 within the boundaries of Holton Township.

If the name of the occupant is not known, the term ‘occupant’ may be used in making notification. In case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, 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.

- 3) All neighborhood organizations, public utility companies, airports, railroads, and other persons, which have requested to receive notice.
3. Record of Mailing: The Clerk shall prepare an affidavit of mailing which shall include those to whom the notice was mailed and the date of mailing.
  4. Content of Notice: The public notice shall:
    - a. Describe nature of request: Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
    - b. 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, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
    - c. Indicate the date, time, and place of the public hearing[s].
    - d. Include a statement describing when and where written comments will be received concerning the request and a statement that the public may appear at the public hearing in person or by counsel.
  5. Registration to Receive Notice by Mail: Any neighborhood organization, public utility, company, railroad or any other person may register with the clerk to receive written notice of all applicants for development.

16.01D Zoning Ordinance Amendment Procedures:

Procedures for the enactment of a Zoning Ordinance amendment shall be as required by Act 110 of Public Acts of 2006, as amended.

**ARTICLE 17**  
**VIOLATIONS**

**Sec. 17.01 PENALTIES**

Any building or structure which is erected, altered, maintained or used, or any use of land which is begun, maintained or changed in violation of the Ordinance is hereby declared to be a nuisance per se. Any person, firm, corporation, or other organization which violates, disobeys, omits, neglects, or refuses to comply with, or resists the enforcement of any provision shall be fined upon conviction not less than \$25.00 per day the first seven days, and \$100.00 per day thereafter, together with the cost of prosecution, or shall be punished by imprisonment in the county jail for not less than 10 days nor more than 90 days for each offense, or may be both fined and imprisoned as provided in the discretion of the court. Each and every day in which a violation continues shall be deemed a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the provisions of this Ordinance.

**Sec. 17.02 PROCEEDINGS**

The Township Board, the Zoning Administrator, the Board of Appeals, or any owner of real estate may institute injunction, mandamus, abatement or any other appropriate proceedings to prevent, enjoin, abate or remove any unlawful erection, alteration, maintenance or use. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

**ARTICLE 18**  
***EFFECTIVE DATE***

ZONING ORDINANCE OF HOLTON TOWNSHIP  
MUSKEGON COUNTY MICHIGAN

Prepared for  
THE HOLTON TOWNSHIP BOARD

With the assistance of:  
THE HOLTON TOWNSHIP PLANNING COMMISSION

Prepared by:  
The West Michigan Shoreline Regional Development Commission  
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ADOPTED: January 10, 1995

PUBLISHED: January 21, 1995  
Muskegon Chronicle, Muskegon, MI

EFFECTIVE: January 21, 1995

ZONING ORDINANCE OF HOLTON TOWNSHIP  
MUSKEGON COUNTY MICHIGAN  
REVISIONS OF 1998

Prepared for:  
THE HOLTON TOWNSHIP BOARD

By the:  
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ADOPTED: May 12, 1998

PUBLISHED: June 11, 1998

EFFECTIVE: June 11, 1998

STATE OF MICHIGAN  
COUNTY OF MUSKEGON  
TOWNSHIP OF HOLTON

**ARTICLE 19**  
***SITE PLAN REVIEW***

**Sec. 19.01 INTENT**

The intent of this chapter shall be to:

1. Provide for consultation and cooperation between the developer and the Planning Commission so that both parties might realize maximum utilization of land and minimum adverse effects upon the surrounding land uses consistent with the requirements and purposes of this Ordinance.
2. Provide for Township review of proposed use(s) of a site in relation to surrounding land uses; accessibility; pedestrian and vehicular circulation; spatial relationship; off-street parking; public and private utilities; drainage; ground water and surface water resources; environmental characteristics; site vegetation, screening, buffering and landscaping; development characteristics and other site elements which may have an effect upon the public health, safety, and general welfare; and its relationship and conformance with adopted Township ordinances and plans.
3. Require site plan review and approval for certain land development projects including additions to, modifications of, and changes in use of existing developments.
4. Provide for establishment of fees for site plan review.
5. Establish guidelines to ensure compliance with the regulations and procedures outlined in this ordinance.

**Sec. 19.02 USES SUBJECT TO SITE PLAN REVIEW**

1. Uses subject to site plan review by the Planning Commission:
  - a. All Primary Permitted uses within the R-4, R-3, R-2, FOR, C-1, IP, and MHP Overlay Districts, except for single-family detached and two-family dwellings.
  - b. Special Permit Land Uses within any zone district.
  - c. Any use or development for which the submission of a site plan is required by any provision of this Ordinance except those listed in Section 19.02(b).
2. Uses subject to site plan review by the Zoning Administrator and/or building official. Such review shall ensure that the setbacks, yards, parking and other specific Zoning Ordinance requirements are met.
  - a. All Primary Permitted Uses within the R-1 District.
  - b. Single-family detached and two family dwellings in any District.

**Sec. 19.03 AUTHORIZATION FOR SITE PLAN REVIEW AND APPROVAL**

1. The Zoning Administrator, Building Official, or Planning Commission, as specified in this Chapter, shall review and approve, review and approve conditions, or review and deny all site plans submitted under this Ordinance. Each site plan shall comply with the "Standards for Granting Site Plan Approval" as described in Section 19.06 of this Ordinance. Each action taken with reference to site plan review shall be duly recorded in the official record of action by the Zoning Administrator or in

the minutes of the Planning Commission. The Zoning Administrator shall forward those site plans requiring Planning Commission review to the Planning Commission along with his/her recommendations as to conformity or nonconformity with Ordinance requirements and what revisions or conditions, if any, would be necessary in order to be in conformance. Prior to any final decision, the Zoning Administrator and Planning Commission shall seek the recommendations (if necessary) of the Holton Township Building Inspector, Planning Consultant, Fire Chief, the Muskegon County Road Commission, Muskegon County Health Department, Muskegon County Drain Commission, Muskegon County Department of Public Works and Planning, the Michigan Department of Transportation, and the Michigan Department of Natural Resources where applicable.

2. Unless delayed by outside technical consultants, all site plans shall be acted upon within sixty (60) days of receipt of the following by the Holton Township Zoning Administrator:
  - a. a completed application
  - b. a site plan meeting the requirements of Section 19.04 below
  - c. all application fees

Following approval of a site plan, the petitioner shall apply for the appropriate Holton Township, County and/or State permits as may be required by said agencies and present appropriate plans and specifications as may be required by such agencies.

#### **Sec. 19.04 APPLICATION FOR SITE PLAN REVIEW**

An application for Site Plan Review shall be submitted to the Zoning Administrator. The detailed site plan presented for consideration shall contain all information required in this ordinance, unless the Zoning Administrator and/or Building Official determines that some of the required information is not reasonably necessary for the consideration of the site plan.

1. The application materials shall, at a minimum, include the following information:
  - a. Current proof of ownership or evidence of a contractual ability to acquire such land, such as an option or purchase agreement or a written statement from the property owner indicating permission for the filing of the application.
  - b. Sheet size of submitted drawings shall be at least 24 inches by 36 inches, with graphics at an engineer's scale of one (1) inch equals twenty (20) feet for sites of 20 acres or less; and one (1) inch equals one-hundred (100) feet or less (i.e., one inch equals 20 to 100 feet) for sites over 20 acres.
  - c. Written documentation that the proposal meets the standards of Section 19.05.
  - d. Six (6) copies of Plan sheet(s) providing the information listed below. The information required below may be provided on a single sheet if clarity can be maintained. Individual site plan requirements may be waived if deemed unnecessary by the Zoning Administrator and/or Building Official.
    - 1) Identification of Project
      - a) The applicant name

- b) Name of the development
  - c) The preparer's name and professional seal of architect, engineer, surveyor or landscape architect indicating licenser in the State of Michigan; date of preparation and any revisions
  - d) North arrow
  - e) Scale of drawing
  - f) Complete and current legal description and size of property in acres
  - g) Small scale location sketch of sufficient size and scale
- 2) Existing Features
- a) Property lines and dimensions
  - b) Zoning and current land use of applicant's property and all abutting property and of properties across any public or private street from the site
  - c) Lot lines, all structures on the property, and all structures within one hundred feet (100) feet of the site's property lines
  - d) Locations of significant natural features
  - e) Location of any access points on both sides of the street within one hundred (100) feet of the site along streets where any access to the site is proposed
  - f) Existing topography at a minimum of 5 foot contours
  - g) Existing drainage courses and existing lake or stream elevations.
- 3) Proposed Construction
- a) Building blueprints, setbacks, and elevations showing height and materials for all proposed structures, including any residential units, with acreage allotted to each use
  - b) Size, height, type, and location of proposed identification signs
  - c) Proposed locations of utility services (with size), including storm drainage, retention or detention ponds, fire hydrants, sewer and water tap locations and any public or private easements
  - d) Runoff calculations used for determination of storm water managements
  - e) Proposed topography with a site grading plan with topography at a minimum of two (2) feet contour intervals
  - f) Location and method of screening for all waste dumpsters



- g) Location and dimensions of parking spaces, and calculations
  - h) A landscape plan indicating proposed plant locations with common plant name number and size at installation. Berms, retaining walls or fences shall be shown with elevations from the surrounding average grade
  - i) Details of exterior lighting including locations, height, and method of shielding
  - j) Details of site circulation and access design, including:
    - o indication of street right-of-way and pavement widths and pavement type;
    - o street horizontal and vertical dimensions, including curve radii;
    - o dimensions of access points including deceleration or passing lanes; distance from adjacent driveways or intersecting streets, including those across a street; boulevard dimensions; etc.;
    - o identification of width and material to be used for pedestrian paths;
    - o names of abutting public street; proposed access driveways and parking areas, and existing and proposed pedestrian/bicycle paths;
    - o projected traffic volumes to be generated;
    - o written verification of access easements or agreements, if applicable.
- 4) All information as required under section 19.06 (Site Plan Review Standards for Groundwater Protection)
- e. A completed "Environmental Permit Checklist." (Available at the office of the Holton Township Zoning Administrator or Building Official)
  - f. A completed "Hazardous Substance Reporting Form for Site Plan Review." (Available at the office of the Holton Township Zoning Administrator or Building Official)
  - g. If a phased development is proposed, identification of the areas included in each phase. For residential uses, identify the number, type, and density of proposed housing units within each phase.
  - h. A completed application form, supplied by the Zoning Administrator or Building Official, and an application fee.
2. The Planning Commission, prior to granting approval of a site plan, may request from the applicant any additional graphics or written materials, prepared by a qualified person or person(s), to assist in determining the appropriateness of the site plan. Such material may include, but not be limited to, aerial photography, photographs, estimated impact on public schools and utilities, traffic impacts, impact on significant features and drainage, soil tests, and estimated construction costs.

**Sec. 19.05 SITE PLAN REVIEW PROCEDURES**

- 1. All site plans subject to review by the Planning Commission shall be reviewed in accordance with the following procedural requirements and activity flow:
  - a. Applicant may request a preliminary meeting with the Zoning Administrator to discuss the proposal and ordinance requirements when the application is obtained (optional).

- b. The applicant shall submit required application materials to the Zoning Administrator, including the application fee (Note: no review activity will occur until all fees are paid in full).
  - c. Copies of the application and site plan are forwarded as necessary to the departments/agencies listed in Section 19.03. The agencies review plans and information for conformance with applicable ordinances and standards. Review comments are submitted to the Zoning Administrator or Building Official.
  - d. The Planning Commission conducts a preliminary review of the site plan and the comments from above-mentioned departments/agencies and indicates to the applicant in writing the changes necessary, if any, for final site plan approval.
  - e. When all the preliminary review comments are addressed the applicant submits six (6) copies of the site plan to the Zoning Administrator or Building Official.
  - f. Final Site Plan review is conducted by the Planning Commission. The Planning Commission shall approve, approve with conditions, or deny the site plan, based upon compliance of the plan with standards of Section 19.05. If approved, the Planning Commission shall indicated in writing that all the requirements of the ordinance, including those of other reviewing agencies within Holton Township, have been met, including any conditions that may be necessary. If denied, the Planning Commission shall cite reasons for denial.
  - g. Where the applicant is dependent upon the granting of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals is necessary before final site plan approval can be granted. An approved site plan shall include a note referencing the case number and date of all variances granted.
  - h. The Planning Commission Secretary shall affix a stamp and signature to two (2) copies of the approved site plan, one of which is kept by the Zoning Administrator and the other by the applicant.
2. All site plans subject to review by the Zoning Administrator or Building Official shall be reviewed in accord with the following procedural requirements and activity flow:
- a. Applicant may request a preliminary meeting with the Zoning Administrator and/or Building Official to discuss the proposal and ordinance requirements when the application is obtained (optional).
  - b. The applicant shall submit required application materials to the Zoning Administrator and/or Building Official, including application fee (Note: no review activity will occur until all fees are paid in full.)
  - c. Copies of the application and site plan are forwarded as necessary to the departments/agencies listed in Section 19.03. The agencies review the plans and information for conformance with applicable ordinances and standards. The review comments are submitted to the Zoning Administrator and/or Building Official.
  - d. The Zoning Administrator and/or Building Official shall approve, approve with conditions,

or deny the site plan, based on compliance of the plan with the standards of Section 19.05. If denied, the Zoning Administrator and/or Building Official shall cite reasons for denial.

- e. Where the applicant upon the granting of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals is necessary before final site plan approval can be granted. An approved site plan shall include a note referencing the case number and date of all variances granted.
  - f. The Zoning Administrator and/or Building Official shall affix a stamp and signature to two (2) copies of the approved site plan, one of which is kept by the Zoning Administrator, the other by the applicant.
3. All site plans must be approved prior to issuance of any building permits and prior to any land balancing, grading, tree removal, or development activity occurring.

### **Sec. 19.06 STANDARDS FOR SITE PLAN APPROVAL**

- 1. The intent of the Planning Commission is to minimize any adverse impacts that a proposed site plan may have on the neighboring properties, the neighborhood in general and its character, and the community as a whole.
- 2. Each site plan shall conform to all applicable provisions of this Zoning Ordinance and the following standards:
  - a. All elements of the site plan shall be designed to take into account the site's topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
  - b. The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
  - c. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provision shall be made to accommodate storm water and prevent erosion.
  - d. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
  - e. Every structure or dwelling unit shall have access to a public street.
  - f. A pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system shall be provided.
  - g. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation within the site shall be provided. Drives, streets and other elements shall be designed to promote safe and efficient traffic operations within the site and at its access points.

- h. The arrangement of public and common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area.
- i. All streets shall be developed in accordance with the Subdivision Control Ordinance and the Muskegon County Road Commission Specifications.
- j. All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the Fire Department and Police Department.
- k. The site shall be adequately served by water supply and sewage collection and/or treatment.
- l. All loading or unloading areas and outside storage areas, including refuse storage stations, shall be screened from view of the street and/or adjacent properties by a vertical screen consisting of structural or plant materials.
- m. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.
- n. Site plans shall conform to all applicable requirements of state and federal statutes and approval must be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.

**Sec. 19.07 SITE PLAN REVIEW STANDARDS FOR GROUNDWATER PROTECTION**

- 1. Definition of hazardous substances and polluting materials:

A chemical or other material which is or may be injurious to the public health, safety, or welfare or to the environment. The term "hazardous substances and polluting materials" includes, but is not limited to, hazardous chemicals as defined by the Michigan Department of Public Health and the Michigan Department of Labor; flammable and combustible liquids as defined by the Michigan State Police Fire Marshal Division; critical materials, polluting materials, and hazardous waste as defined by the Michigan Department of Natural Resources; hazardous substances as defined by the U.S. Environmental Protection Agency; and hazardous materials as defined by the U.S. Department of Transportation.

- 2. Applicability

These provisions shall apply to all business and facilities, including private and public facilities, which use, store or generate hazardous substances and polluting materials in quantities greater than 100 kilograms per month (equal to about 25 gallons or 220 pounds), and which require site plan review under the provisions of this or other Township ordinances.

- 3. Site Plan Information Requirements

- a. Completion and submission of the "Hazardous Substance Reporting Form for Site Plan Review."
- b. Locations of existing and proposed service facilities and structures, both above and below ground, shall be shown, including:
  - 1) Public and private ground water supply wells on-site and on adjacent properties.

- 2) Septic systems and other waste water treatment systems (the location of the drain field and the septic tank, if applicable, shall be clearly distinguished).
  - 3) Areas to be used for the storage, use, loading/unloading, recycling, or disposal of hazardous substances and polluting materials, including interior and exterior areas. Include construction materials to be used for such areas, i.e. concrete pad, asphalt, synthetic liner, etc.
  - 4) Underground storage tank locations.
  - 5) Locations of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect store or transport storm water or waste water. The point of discharge for all drains and pipes should be specified on the site plan.
- c. Locations of existing wetlands and water courses, including lakes, ponds, rivers, and streams.
  - d. Soil characteristics of the parcel, at least to the detail provided by the U.S. Soil Conservation Service.
  - e. Existing topography, with a maximum contour interval of two (2) feet indicated.
  - f. Delineation of areas on the site which are known or suspected to be contaminated, along with a report on the status of site cleanup.

#### 4. Site Plan Review Standards

##### a. Groundwater Protection Standards

- 1) The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains, ground water, and steep slopes and to ensure the absence of an impairment, pollution, and/or destruction of the air, water, natural resources and the public trust therein.
- 2) Storm water management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding or the potential for pollution of surface or ground water, on-site or off-site.
- 3) Sites at which hazardous substances and polluting materials are stored, used, or generated shall be designed to prevent spills and discharges to the air, surface of the ground, ground water, lakes, streams, rivers or wetlands.
- 4) State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to ground water, including direct and indirect discharges, shall be allowed without required permits and approvals.
- 5) In determining conformance with the standards in this zoning ordinance, the Township shall take into consideration the publication titled "Small Business Guide to Secondary Containment" and other references.

b. Above Ground Storage and Use Areas for Hazardous Substances and Polluting Materials

- 1) Hazardous substances and polluting materials, whether in liquid or solid form, shall be stored in product-tight containers or tanks (primary containment structures) which are free of leaks and protected from accidental damage and vandalism.
- 2) Secondary containment (double enclosure) shall be provided for liquid or semi-liquid hazardous substances and polluting materials. Secondary containment shall be of sufficient volume to hold any leak or spill for the time necessary to clean up the spill.
- 3) Secondary containment structures such as outbuildings, storage rooms, sheds, and pole barns must not have floor drain connections leading to soils, ground water, or nearby drains or rivers. Manually operated sumps or impervious areas to collect and hold water, leaks, and spills are recommended.
- 4) Areas and facilities used for the loading and/or unloading of hazardous substances and polluting materials, as well as areas where such materials are handled and used, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, ground water, or soils.

c. Floor Drain Connections and Potential Discharges

- 1) General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or, an approved on-site disposal system authorized through a state ground water discharge permit.
- 2) Floor drains which are likely to receive industrial or commercial waste waters, either through accidental spills or intentional discharges, shall not be allowed without evidence that all necessary state, county, and waste water treatment plant approvals have been obtained.

d. Underground Storage Tanks

- 1) Existing and new underground storage tanks shall be registered with the authorized state agency in accordance with requirements of the U.S. Environmental Protection Agency and the State Police Fire Marshall Division.
- 2) Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with requirements of the State Police Fire Marshall Division. Leak detection, corrosion protection, spill prevention and overflow protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review by government officials.
- 3) Out of Service abandoned underground tanks shall be emptied and removed from the ground in accordance with the requirements of the State Police Fire Marshall Division, and the Michigan Department of Natural Resources.

e. Spill Prevention and Emergency Response Plans

- 1) All facilities storing in excess of 100 kilograms (equal to about 25 gallons or 220 pounds) of hazardous substances or petroleum products shall prepare a written

spill prevention and emergency response plan.

- 2) The MDNR Pollution Incident Prevention Plan (PIPP) review checklist and the Michigan State Police EMD Publication 602 (available at the office of the Holton Township Zoning Administrator), shall provide guideline for development of the plan, provided state and federal agency requirements for spill prevention and emergency response plans are met.
- 3) Spill prevention and emergency response plans shall be kept on file at the facility, available for inspection at any time by the Holton Township Fire Chief or his/her Designee.
- 4) It shall be the responsibility of the facility owner to prepare updated spill prevention and emergency response plans whenever there is a change in the use, handling, or storage of any hazardous substances or petroleum products.

f. Sites with Contaminated Soils and/or Groundwater

- 1) Site plans shall take into consideration the location and extent of any contaminated soils and/or ground water on the site, and the need to protect public health and the environment.
- 2) Development shall not be allowed on or near contaminated areas of a site unless information from the Michigan Department of Natural Resources is available indicating that cleanup will proceed in a timely fashion.

**Sec. 19.08 CONDITIONAL APPROVALS**

1. As part of an approval of the site plan the Planning Commission, Zoning Administrator, or Building Official may impose additional conditions or limitations that in its judgment may be necessary for protection of the public interest. Such conditions shall be related to and ensure that the standards established in this ordinance are met.
2. Approval of a site plan, including conditions made as part of the approval, shall be attached to the property described as part of the application and not to the owner of such property.
3. A record of conditions imposed shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved.

**Sec. 19.09 VALIDITY OF APPROVED SITE PLAN**

1. Approval of the site plan is valid for a period of one (1) year. If actual physical construction of a substantial nature of the improvements included in the approved site plan has not commenced and proceeded meaningfully toward completion during that period, the approval of the site plan shall be null and void. Substantial improvements shall include the installation of one or more underground utility systems, the installation of streets or the installation of one or more building foundations. Upon written application, filed prior to the termination of the one (1) year period, the Planning Commission may authorize a single extension of the time limit for approval of a site plan for a further period of not more than one (1) year.
2. Site plans whose approval has expired shall require resubmission as an initial application.

3. Approval of the site plan shall void any corresponding site plan previously approved for any portion of the site.

**Sec. 19.10 AMENDMENT OF AN APPROVED SITE PLAN**

1. Any person who has been granted site plan approval shall notify the Zoning Administrator of any proposed amendment to the approved site plan.
2. A minor change in the site plan may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially change the basic design or alter the conditions required for the plan by the Commission. The following items shall be considered as minor changes:
  - a. Reduction of the size of any building and/or sign.
  - b. Movement of buildings by no more than 10 feet.
  - c. Plantings approved in the site plan landscape plan being replaced by similar types of landscaping.
  - d. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
  - e. Changes required or requested by the Township for safety reasons.
  - f. Changes which will preserve the natural features of the site without changing the basic site layout.
  - g. Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety and welfare.
3. The Zoning Administrator may refer any decision regarding any proposed change to an approved site plan to the Planning Commission for review and approval, regardless of whether the change may qualify as a minor change. In making a determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the Zoning Administrator may consult with the
4. Chairperson of the Planning Commission.  
If the Zoning Administrator determines that the requested modification to the approved site plan is not minor, resubmission to the Planning Commission for an amendment shall be required and conducted in the same manner as an original application.

**Sec. 19.11 CONFORMITY TO APPROVED SITE PLAN REQUIRED**

Following Final Approval of a site plan by the Planning Commission, Zoning Administrator or Building Official, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this ordinance and subject to the sanctions of this Ordinance.



**ARTICLE 20**  
***LAND DIVISION ORDINANCE***

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, and Act 246 of 1945, as amended, being the Township General Ordinance Statute, to provide a procedure therefor, to repeal any Ordinance or provision thereof in conflict herein, and to prescribe penalties and enforcement remedies for the violation of this Ordinance.

THE TOWNSHIP OF HOLTON, MUSKEGON COUNTY, MICHIGAN ORDAINS:

**Sec. 20.01 TITLE**

This Ordinance shall be known and cited as the Holton Township Land Division Ordinance.

**Sec. 20.02 PURPOSE**

The purpose of this Ordinance is to carry out the provisions of the State Land Act (PA 591 of 1996, as amended), to prevent the creation of parcels of property which do not comply with applicable Ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety, and welfare of the residents and property owners of the municipality by establishing reasonable standards for prior review and approval of land divisions within the municipality.

**Sec. 20.03 DEFINITIONS**

For purposes of this Ordinance, certain terms and words used herein shall have the following meaning:

1. "Applicant" - a natural person, firm, association, partnership, corporation, or combination of any of them that holds ownership interest in land whether recorded or not.
2. "Divided" or "Division" - the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act. "Divide" and "Division" does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to the parcel conforms to the requirements of the State Land Division Act, or the requirements of other applicable local Ordinances.
3. "Exempt split" or "exempt division" - the partitioning or splitting of a parcel or tract of land by proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent.
4. "Forty acres or the equivalent" - either 40 acres, a quarter - quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
5. "Governing body" - the Holton Township Board.

## **Sec. 20.04 PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS**

Land in Holton Township shall not be divided without the prior review and approval of the Zoning Administrator, in accordance with this Ordinance and the State Land Division Act, provided that the following shall be exempted from this requirement.

1. A parcel proposed for subdivision through a recorded plat pursuant to the State Land Division Act.
2. A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act.
3. An exempt split as defined in this Ordinance or other partitioning or splitting that results in parcels of 20 acres or more if each is not accessible and the parcel was in existence on March 31, 1997 or resulted from exempt splitting under the State Act.

## **Sec. 20.05 APPLICATION FOR LAND DIVISION APPROVAL**

An applicant shall file all of the following with the Zoning Administrator for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development.

1. A completed application form on such form as may be provided by the municipality.
2. Proof of fee ownership of the land proposed to be divided.
3. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing roads. In lieu of such survey map, at the applicant's opinion, the applicant may waive the 45 day statutory requirement for a decision on the application until such survey map and legal description are filed with the municipality, and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application from including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and accessibility of each division from existing or proposed public or private roads for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the locally designed official prior to a final application under Section 5.
4. Proof that all standards of the State Land Division Act and this Ordinance have been met.
5. The history and specifications of any previous divisions of land which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.
6. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
7. If transfer of division rights is proposed in the land transfer, detailed information about terms and availability of the proposed division rights transfer.
8. Unless a division creates a parcel which is acknowledged and declared to be "not build able" Under

Section 8 of this Ordinance, all divisions shall result in "buildable" parcels containing sufficient "buildable" area outside of the non-buildable wetlands, floor plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, onsite sewage disposal and water well locations (where public water and sewer service is not available), and maximum allowed area coverage of buildings and structures on the site.

9. The fee as may from time to time be established by resolution of the Holton Township Board for land division reviews pursuant to this Ordinance to cover the costs of review of the application and administration of the Ordinance and the State Land Division Act.
10. Land division shall not be approved unless resulting parcels be on an approved and maintained public, or approved and maintained private road.

**Sec. 20.06 PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL**

1. Upon receipt of a Land Division Application, the Zoning Administrator shall, within 5 business days, submit the same to the Planning Commission Chairperson for distribution to Planning Commission Members. The Zoning Administrator shall approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 45 days after receipt of the completed application package conforming to this Ordinance's requirements, and shall promptly notify the applicant of the decisions and the reasons for denial. If the application package does not conform to this Ordinance requirements and the State Land Division Act, the Zoning Administrator shall return the same to the applicant for completion and refilling in accordance with the Ordinance and State Land Division Act.
2. Any person or entity aggrieved by the decision of the Zoning Administrator may, within 30 days of said decision appeal the decision to the Planning Commission which shall consider and resolve such appeal by a majority vote of said commission at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of time and date of said meeting and appellate hearing.
3. A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such a period a document is recorded with the County Registered of Deeds office and filed with the Municipal Clerk or other designated official accomplishing the approved land division or transfer.
4. The Municipal assessor shall be provided a copy of the approved or disapproved application for land division by the Zoning Administrator.
5. The Zoning Administrator shall maintain an official record of all approved and accomplished land divisions or transfers.
6. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.
7. The Township and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement

to this effect.

### **Sec. 20.07 STANDARDS FOR APPROVAL OF LAND DIVISIONS**

A proposed land division shall be approved if the following criteria are met:

1. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the applicable Holton Township Zoning Ordinance, as amended, including, but not limited to, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum set-backs for existing buildings/structures.
2. The proposed land division(s) complies with all the requirements of the State Land Division Act and this Ordinance.
3. All parcels created and remaining have existing adequate accessibility, or an area available therefore, to a public road for public utilities and emergency and other vehicles not less than the requirements of the Township Zoning Ordinance, major thoroughfare plan, road ordinance or this Ordinance.
4. The ratio of depth to width of any parcel created by the division does not exceed the specific district requirements as defined in the applicable Holton Zoning Ordinance exclusive of access roads, easements, or non-buildable parcels created under Section 20.08 of this Ordinance and parcels complying with said ratio. The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of a parcel from the point of commencement of the measurement. The minimum width as required by the Ordinance abutting an approved road shall be continuous throughout the depth.
5. In the absence of applicable Zoning or other Ordinances providing a different standard, all parcels created by a land division shall comply with the following minimum standards:
  - a. Where accessibility is to be provided by a proposed new dedicated public road, proof that the County Road Commission or Michigan Department of Transportation has approved that proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.
  - b. Where accessibility by vehicle traffic and for utilities is permitted through other than a dedicated and accepted public road or easement, such accessibility shall comply with Holton Township Private Road Ordinance.

### **Sec. 20.08 ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS**

Not with standing disqualification from approval pursuant to this Ordinance, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the Township Zoning Ordinance or this Ordinance may be approved in any of the following circumstances:

1. Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the Township Zoning Administrator, designing the parcel as "non-buildable". Any such parcel shall also be designed as "non-buildable" in the Township records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for a variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height.
2. Where, in circumstances not covered by paragraph A above, the Zoning Board of Appeals has previous to this Ordinance, granted a variance from the lot, yard, ratio, frontage and/or area

requirements with which the parcel failed to comply.

3. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating Ordinance, and applicable Zoning Ordinance, or the State Land Division Act.

**Sec. 20.09 CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT**

Any division of land in violation of any provision of this Ordinance shall be recognized as a land division on the Township tax roll or assessment roll until the Zoning Administrator refers the suspected violation or potential nonconformity to the County Prosecuting Attorney and gives written notice of such referral to the person requesting the division and the person suspected of the violation or potential nonconformity. In addition, the Zoning Administrator shall give written notice of the suspected violation or potential nonconformity to the Department of Consumer and Industry Services. The Township staff further has the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this Ordinance. Any division of land in violation of this Ordinance shall further not be eligible for any Zoning or building permit for any construction or improvement thereto. In addition, any person, firm or corporation who violates any provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute, which shall be punishable by a civil fine of not more than \$500, along with costs that may include all expenses, direct and indirect, that the Township has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 nor more than \$500 be ordered. A violator of this Ordinance shall also be subject to additional sanctions and judicial orders as authorized under Michigan Law. Pursuant to Section 267 of the Land Division Act (MCL 560.267), an unlawful division or split shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged therefore, together with any damages sustained by the purchaser, recoverable in an action of law.

**Sec. 20.10 SEVERABILITY**

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, work, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part of portion thereof.

**Sec. 20.11 REPEAL**

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed. Except that this Ordinance shall not be construed to repeal any provisions in the Holton Township Zoning Ordinance, the Holton Township Building Code or other Ordinances of the Township which shall remain in full force and not effect notwithstanding any land division approval hereunder.

**Sec. 20.12 EFFECTIVE DATE**

This Land Division Ordinance shall take effect upon publication following its adoption

Adopted: May 12, 1998

Published: June 11, 1998

Effective: June 11, 1998

**ARTICLE 21  
WIRELESS COMMUNICATION FACILITIES**

An ordinance to regulate: For the purpose of providing regulations for the application, review, construction and maintenance of wireless communication facilities.

**ARTICLE 21, GENERAL PROVISIONS**, of Zoning Ordinance No. 1998 shall be amended by adding a new Section 21, Wireless Communication Facilities, reading as follows:

**Sec. 21.01 PURPOSE AND INTENT**

It is the purpose and intent of the Township to regulate Wireless Communication Facilities in a manner which will retain the integrity of the neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, the Township is mindful that regulations may not unreasonably discriminate among providers, or prohibit the provision of Wireless Communication Services.

Recognizing the number of providers authorized to establish and operate Wireless Communication services and coverage, it is the further purpose and intent of this Section to:

1. Provide for the administration of this Section so as to preclude the necessity of having new, freestanding tower or pole structures in the Township, and so as to preclude the establishment of Wireless Communication Facilities in residential neighborhoods or on or near public elementary or middle school properties in residential neighborhoods.
2. Facilitate adequate and efficient provision of sites for Wireless Communication Facilities.
3. Establish predetermined districts of the number, shape, and in the location, considered best for the establishment of Wireless Communication Facilities, subject to application standards and conditions.
4. In the event an applicant proves that there is no reasonable difference of opinion that the provision of Wireless Communication Service will be prohibited if the location of a Wireless Communication Facility is restricted to the areas predetermined by the Township, as shown on the map which is a part of this Section, the Township may then consider approving a location outside of a predetermined area which is found by the Township to be the least intrusive to neighborhoods and to the Township as a whole.
5. Ensure that Wireless Communication Facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.
6. Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.
7. Promote the public health, safety and welfare.
8. Provide for adequate information about plans for Wireless Communication Facilities in order to permit the community to effectively plan for the location of such facilities.
9. Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
10. Minimize the negative visual impact of Wireless Communication Facilities on neighborhoods, community land marks, historic sites and buildings, natural beauty areas and public rights-of-way.

This contemplates the establishment of as few structures as reasonably feasible, and the use of structures which are designed for compatibility, including the use of existing structures and the avoidance of new freestanding structures.

11. The legislative body of the community finds that the presence of tower and/or pole structures, particularly if located within residential areas, would decrease the attractiveness and destroy the character and integrity of the community. This, in turn, may have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact from the presence of numerous relatively tall tower structures having low architectural and other aesthetic appeal to most persons, recognizing that the absence of regulation would result in a material impediment to the maintenance and promotion of property values, and further recognizing that this economic component is an important part of the public health, safety and welfare.
12. Land within road rights-of way shall be subject to regulation under this Section.

### **Sec. 21.02 DEFINITIONS**

The following definitions shall apply in the interpretation of this section:

1. Wireless Communication Facilities shall mean and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, micro-wave relay facilities, telephone transmission equipment building and private and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; federally licensed amateur (ham) radio facilities; satellite dishes; and governmental facilities which are subject to state and federal law or regulations which preempt municipal regulatory authority.
2. Attached Wireless Communication Facilities shall mean wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.
3. Wireless Communication Support Structures shall mean structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.
4. Collocation shall mean the location by two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.
5. Planning Official shall mean the Supervisor or the Supervisor's designee.

### **Sec. 21.03 AUTHORIZATION**

1. Subject to the standards and conditions set forth in subparagraph 21.04, below, wireless communication facilities shall be permitted uses in the following circumstances, and in the following

district specified in 21.03B below:

a. Circumstances creating permitted use treatment:

In the following circumstances, a proposal to establish a new wireless communication facility shall be deemed a permitted use:

- 1) An existing structure which will serve as an Attached Wireless Communication Facility within a nonresidential zoning district, where the existing structure is not, in the discretion of the Planning Official, proposed to be either materially altered or materially changed in appearance.
- 2) A proposed collocation upon an Attached Wireless Communication Facility which has been pre-approved for such collocation as part of an earlier approval by the Township.

b. Permitted uses in the North East 1/4 Section 1 and the South East 1/4 of Section 31.

2. If it is demonstrated by an applicant that there is no reasonable difference of opinion that a Wireless Communication Facility may not reasonably be established as a permitted use under subparagraph 1, above, and is required in order to operate a Wireless Communication Facility may be authorized as a Special Use Permit with the approval of the Planning Commission following a public hearing and the recommendation of the Planning Commission considering the standards set forth below:
3. In the event an applicant proves that there is no reasonable difference of opinion that the provision of Wireless Communication service will be prohibited if the location of a Wireless Communication Facility is restricted to the areas predetermined by the Township, as permitted under paragraphs 1 and 2, above, and provided that the applicant further demonstrates entitlement to a Special Land Use under the criteria and the standards of Sections 21.04 and 21.05, below, then the Planning Official, following a public hearing and recommendation of the Planning Commission, may consider the approval of a location for a Wireless Communication Facility elsewhere in the Township. It shall be the further burden of an applicant proceeding under this provision to demonstrate to the Planning Official that there is no reasonable difference of opinion that the ultimate location selected will result in the least adverse impact upon neighborhoods and upon the Township as a whole.

**Sec. 21.04 GENERAL REGULATIONS**

1. Standards and Conditions Applicable to All Permitted and Special Land Use Facilities

All applications for Wireless Communication Facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the Planning Official in the Planning Official's discretion:

- a. Facilities shall be located and designed to be harmonious with the surrounding areas. Among other things, all reasonable attempts shall be made and thoroughly explored to utilize structures on which to place facilities, i.e., to utilize Attached Wireless Communication Facilities.
- b. Wireless Communication Facilities shall comply with applicable federal and state standards



relative to the environmental effects of radio frequency emissions, as confirmed by submission of Certification of Compliance by the applicant's licensed engineer.

- c. Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of all alternative designs which might result in lower heights. Lattice structures, guyed structures or structures which require or are proposed to have high intensity (strobe) lighting shall not be permitted.
- d. The following additional standards shall be met:
  - 1) The maximum height of the new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to collocate on the structure). The accessory building contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.
  - 2) The setback of the support structure from any adjacent residential property shall be no less than the height of the highest point of any structure on the premises, or the minimum distance established by the other provision of this section, whichever is greater.
  - 3) Where the proposed new or modified support structure is in or abuts a parcel of land zoned for a use other than residential, the minimum setback of the structure, and accessory structures, shall be in accordance with the required setbacks for main or principal buildings as provided in the schedule of regulations for the zoning district in which the support structure is located (See paragraph E.3, below).
  - 4) There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: The location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and, the type of equipment which will be needed to access the site.
  - 5) The division of property for the purpose of locating a Wireless Communication Facility is prohibited unless all zoning requirements and conditions are met.
  - 6) Where an attached Wireless Communication Facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks. For collocation facilities served by an accessory building, there shall be a single, architecturally uniform accessory building for all providers.
  - 7) The Planning Official shall, in the Planning Official's discretion, with respect to the

design and appearance of the support structure and all accessory buildings, review and approve so as to minimize distraction, reduce visibility, maximize aesthetic appearance, including landscaping, and ensure compatibility with surroundings. The Planning Official shall not have authority to approve a lattice or guyed structure. It shall be the responsibility of the applicant to maintain the Wireless Communication Facility in a neat and orderly condition.

- 8) The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.
- 9) A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure long term, continuous maintenance to a reasonably prudent standard.
- 10) The use of high intensity (strobe) lighting on a Wireless Communication Facility shall be prohibited, and the use of other lighting shall be prohibited absent a demonstrated need.
- 11) Applications made which do not include the signature of the licensed operator of a Wireless Communication Service at the time of community processing may be tentatively approved, but shall not receive final approval unless and until the application has been amended to include a signature on behalf of a licensed operator. A tentative approval shall be valid for ninety (90) days. If, during a ninety (90) day tentative approval period, final approval is granted to authorize a Wireless Communication Facility within two miles of the property on which a facility has been tentatively approved, such tentative approval shall thereupon expire unless the applicant granted tentative approval demonstrates that it would not be feasible for it to collocate on the facility that has been newly granted final approval.
- 12) The antenna and other attachments on a Wireless Communication Facility shall be designed and constructed to include the minimum attachments required to operate the facility as intended at the site, both in terms of number and size, and shall be designed and constructed to maximize aesthetic quality.

#### **Sec. 21.05 APPLICATION REQUIREMENTS**

1. Site plan prepared in accordance with Section 15.15 shall be submitted, showing the location, size, screening and design of all buildings and structures, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.
2. The site plan shall also include a detailed landscaping plan where the support structure is being placed at a location which is not otherwise developed, or where a developed area will be disturbed. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure.

3. The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to the matter in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.
4. The application shall include a description of security to be posted with the Township at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in section 21.08 below. In this regard, the security shall, at the election of the applicant, be in the form of: (1) cash; (2) surety bond; (3) letter of credit; or (4) an agreement in a form approved by the attorney for the community and recordable at the Office of the Register of Deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this Section of the Ordinance, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorney fees incurred by the community in securing removal.
5. The application shall include a map showing existing and known proposed Wireless Communication Facilities within the Township, and further showing existing and known proposed Wireless Communication Facilities within areas surrounding the borders of the Township in location, and in the area, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the community, the applicant shall be required only to update as needed. Any such information which is trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy. [MCL 15.243(1) (g)]. This Ordinance shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the community.
6. The name, address, and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.
7. The application fee, in the amount specified by Township Board Resolution.
8. The owner or duly authorized representative of all ownership interest in the land on which the Wireless Communication Facility is proposed to be located shall sign the application. In addition, if a licensed entity intended to be the operator on the facility does not sign the application, approval shall be restricted as provided in the General Regulations, above.

**Sec. 21.06 SPECIAL REQUIREMENTS FOR FACILITIES PROPOSED TO BE OUTSIDE APPROVED DISTRICTS**

For facilities which are not permitted uses under Section 21.03.1, above, and are proposed to be located outside of a district identified in Section 21.03.2, above, an application shall be reviewed and, if approved, facilities shall be constructed and maintained in accordance with the following additional standards and requirements, along with those in Section 21.04:

1. At the time of the submittal, the applicant shall demonstrate that a location within an area identified under Sections 21.03.1 and 21.03.2 cannot reasonably meet the coverage and/or capacity needs of the applicant.
2. Wireless Communication Facilities shall be of a design such as (without limitation) a steeple, bell

tower, or other form which is compatible with the existing character of the proposed site, neighborhood and general area, as approved by the Planning Official.

3. Site locations outside of an approved district identified in Sections 21.03.1 and 21.03.2 above, shall be considered on the following sites (not stated in any order of priority), and subject to application of all other standards contained in the section:
  - a. Municipally owned or governmentally owned site (excluding a public elementary or middle school or public elementary or middle school playground or other property within 50 yards of a public elementary or middle school or public elementary or middle school playground).
  - b. Religious or other institutional site.
  - c. Large permanent open space areas when compatible.
  - d. Other locations if the applicant proves that there is no reasonable difference of opinion that the provision of Wireless Communication Service will be prohibited in the location of a Wireless Communication Facility is restricted to the areas predetermined by the Township, as permitted under Sections 21.03.1 and 21.03.2, above, and to the sites listed in subparagraphs 3a, 3b, or 3c, above.

#### **Sec. 21.07 COLLOCATION**

1. Statement of Policy:

It is the policy of the Township to minimize the overall number of newly established locations for Wireless Communication Facilities and Wireless Communication Support structures within the community, and encourage the use of existing structures for Attached Wireless Communication Facility purposes, consistent with the statement of purpose and intent, set forth in Section 21.01, above. Each licensed provider of a Wireless Communication Facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of dramatic increase in the number of Wireless Communication Facilities reasonably anticipated to occur as a result of the change of federal law and policy in and regulating to the Federal Telecommunications Act of 1996, it is the policy of the Township that all users should collocate on Attached Wireless Communication facilities and Wireless Communication support Structures in the interest of achieving the purposes and intent of this Section, as stated above, and as stated in Section 21.01. 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, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the Township. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the Township.

2. Feasibility of Collocation:

Collocation shall be deemed to be "feasible" for the purposes of this section where all of the following are met:

- a. The Wireless Communication provider entity under consideration for collocation and undertake to pay market rent or other market compensation for collocation.
- b. The site on which collocation is being considered, taking into consideration reasonable modification of replacement of a facility, is able to provide structural support.

- c. The collocation being considered is technologically reasonable, e.g., the collocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
  - d. The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the Township, taking into consideration the several standards contained in Sections 21.04 and 21.06, above.
3. Requirements for Collocation:
- a. A Special Land Use Permit, Sec.13.06, *et. seq.*, for the construction and use of a new Wireless Communication Facility shall not be granted unless and until the applicant demonstrates that a feasible collocation is not available for the coverage area and capacity need.
  - b. All new and modified Wireless Communication Facilities shall be designed and constructed so as to accommodate collocation.
  - c. The policy of the community is for collocation. Thus, if a party who owns or otherwise controls a Wireless Communication Facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible collocation, such facility shall thereupon and thereafter be deemed to be nonconforming structure and use, and shall not be altered, expanded or extended in any respect and subject to removal as a nonconforming structure.
  - d. If a party who owns or otherwise controls a Wireless Communication Facility shall fail or refuse to permit a feasible collocation, and this requires the construction and/or use of a new Wireless Communication Support Structure, the party failing or refusing to permit a feasible collocation shall be deemed to be in direct violation and consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for new Wireless Communication Support Structures within the Township for a period of five years from the date of the failure or refusal to permit the collocation. Such a party may seek a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates the enforcement of the five year probation would reasonably discriminate among providers of functionally equivalent Wireless Communication Services, or that such enforcement would have the effect of prohibiting the provision of personal Wireless Communication services.
4. Incentive:
- Review of an application for collocation, and review of an application for a permit for use of a facility permitted under Section 21.03.a, above, shall be expedited by the Township.

**Sec. 21.08 REMOVAL**

- 1. A condition of every approval of a Wireless Communication Facility 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:
  - a. When the facility has not been used for 180 days 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.
  - b. Six months after new technology is available at reasonable cost as determined by the municipal legislative body, 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..

2. The situations in which removal of a facility is required, as set forth in paragraph 1, above, may be applied and limited to portions of a facility.
3. Upon the occurrence of one or more of the events requiring removal, specified in paragraph 1, above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the Premises to an acceptable condition as reasonably determined by the Planning Official.
4. If required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, 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.
5. 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.

#### **Sec. 21.09 EFFECT OF APPROVAL**

1. Subject to the following paragraph 2, final approval under this section shall be effective for a period of six (6) months.
2. If construction of a Wireless Communication Facility is commenced within two miles of the land on which a facility has been approved, but on which construction has not been commenced during the one year period of effectiveness, the approval for the facility that has not been commenced shall be void thirty (30) days following notice from the Township of the commencement of the other facility unless the applicant granted approval of the facility which has not been commenced demonstrates that it would not be feasible for it to collocated on the facility that has been newly commenced.

#### **Sec. 21.10 ORDINANCE**

The provisions of this Ordinance are hereby ordered to take effect as follows: On the eighth day following publication if a notice of intent to file a petition requesting submission of this Ordinance to a vote of Township Electors has not been filed within seven days of publication; and, if such a petition has been filed within seven days of publication, this Ordinance shall not take effect until one of the following occurs: (1) the expiration of 30 days after publication of this Ordinance and a petition found by the Township Clerk to be adequate has not been filed; or (2) a petition found by the Township Clerk to be adequate under law is filed within the 30 days, and this Ordinance is then approved by a majority of the registered electors residing in the portion of the Township outside the limits of cities and villages. In order to be adequate, a petition submitted within the 30 days must be signed by a number of registered electors residing in the portion of the Township outside the limits of cities and villages equal to not less than ten (10) percent of the total vote count for all candidates for governors at the last preceding general election at which a governor was elected.

#### **Sec. 21.11 EFFECTIVE DATE**

Published March 6, 1999  
Effective Date March 14, 1999

Made and passed by the Township Board of HOLTON.

TOWNSHIP CLERK

## **ARTICLE 22**

### ***ANIMAL CONTROL ORDINANCE***

An ordinance to regulate the housing, keeping, and maintenance of animals in Holton Township.

ARTICLE 22, GENERAL PROVISIONS – of Zoning Ordinance No. 1998, shall be amended by adding a new Section 22, Animal Control Ordinance, reading as follows:

#### **Sec. 22.01 PURPOSE & INTENT**

The purpose of this ordinance is to provide for the health, safety, and general welfare of the persons and property within Holton Township, prevent pollution, and promote the humane treatment of all animals. The

provision of this Ordinance shall be applicable to all zoning districts except agricultural.

### **Sec. 22.02 DEFINITIONS**

1. **Animal Unit:** One (1) animal unit equals 500 lbs. total live weight of animals over 90 days of age.
2. **Livestock:** For the purpose of this ordinance shall mean any animal ordinarily maintained outside of the main building or swelling and ordinarily considered as a source of food, riding, or profit. It shall include but not be limited to horses, cows, mules, swine, goats, sheep, steers, and other large animals.
3. **The term “livestock” shall not include the following:** poultry, fowl, rabbits and fur-bearing animals which are kept for the purpose and value of their eggs, pelts, meat, or as sport. The aforementioned may be kept within Holton Township without permit if kept and maintained for the owner’s personal use and not for commercial profit. When kept, the aforementioned shall be properly fenced and housed and shall not constitute a nuisance.
4. **Domestic Animals:** An animal kept as a pet including, but not limited to, all dogs and cats. The aforementioned may be kept in Holton Township if kept and maintained for the owner’s personal pleasure or use and not for commercial profit. When kept, the aforementioned shall be properly fenced, housed, or under control, and not constitute a nuisance.
5. **Nuisance:** Defined for purposes of this ordinance as any condition offensive by way of odor, noise, filth, annoyance, unsightliness, or other unsanitary condition.
6. **Animal:** Any living, vertebrate creature, domestic or wild, not including a human being.
7. **Shelter:** Adequate protection from the elements suitable for the age and species of the animal and weather conditions to maintain the animal in the state of good health.
8. **Dangerous Animal:** Any animal which without provocation attacks or injures a person who is peacefully conducting themselves in any place where they lawfully may be. Dangerous animals shall also include any animal which, because of its size, vicious propensity or other characteristic, would constitute a danger to human life, property, or domestic animals.

### **Sec. 22.03 FENCING AND ENCLOSURES**

1. Livestock shall be properly fenced and housed so as not to be able to run at large. Livestock shall be so kept so as not to constitute a nuisance.
2. Fencing, shelters or other accessory structures for livestock shall be sufficient to retain the livestock on the owned or leased premises of the keeper of said livestock and shall be no closer than one hundred feet (100) to the keepers residence of human water supply. Fencing, shelters and other accessory structures shall not be closer than two hundred (200) feet to any neighboring residence, public building, or human water on adjacent property not owned by the keeper.

### **Sec. 22.04 LIVESTOCK DENSITY**

Livestock density shall be a minimum of two contiguous acres for the first two (2) animal units and one additional contiguous acre for each two (2) animal units thereafter.



**Sec. 22.05 GENERAL PROVISIONS**

1. All manure and other waste products shall be managed in accordance with the recommendations set forth in the generally accepted agricultural and management practices.
2. Keeping of wild animals: No person shall keep or permit to be kept on his or her premises any wild animal (such as, but not limited to, bear, deer, large snakes, large reptiles or large members of the cat family) as a pet or for display or exhibition purposes, unless he or she has obtained a permit from the State of Michigan authorizing such activity and complies with the Township Zoning Ordinance. This sub section shall not apply to performing animal exhibitions or circuses. An animal control officer shall have the power to release or order the release of any wild animal capable of surviving in the wild and/or turn such animal over to the agency authorized by the State of Michigan to house wild life.
3. Keeping dangerous animals: No person shall permit any dangerous animal to be private or public property other than the owner's property unless such animal is securely muzzled or caged. Adequate safeguards shall be taken to prevent unauthorized access to a dangerous animal on the owner's premises by persons unlawfully on the premises.

**Sec. 22.06 SPECIAL PERMIT REQUIRED, Sec.13.06, et. seq.**

1. The following may be established by special use permit of the Planning Commission:
2. The keeping of poultry, fowl, rabbits and fur-bearing animals for commercial profit by the respective establishment of egg and broiler barns, sportsman's associations, and shooting preserves, rabbitries and fur-bearing animal ranches.
3. Milk barn operations defined as barns maintained for keeping of cows or other animals for the sale of their milk.
4. \* High-density, fully enclosed and sheltered livestock raising structures.
5. Animal boarding, dog kennels, hospitals and animal rescue.
6. Such permit can be granted only after proper application as specified in the Township Zoning Ordinance. All applications must demonstrate satisfaction of all local, county, state and federal regulatory and statutory requirements and particularly must demonstrate implementation for the proper disposal of animal waste and carcasses, furnishing of adequate water resources, the avoidance of contamination and pollution and the elimination of noise and odor nuisance.

\* Revised: 10/30/03

**Sec. 22.07 RELATIONSHIP WITH OTHER ORDINANCES**

This Ordinance shall relate to, further emphasize and to be a guideline for the Holton Township Zoning Ordinance and supersedes any other Ordinance in conflict.

**Sec. 22.08 SEVERANCE CLAUSE**

Any section found to be invalid because of reason of unconstitutionality or other reasons shall be separated, but the remainder of the Ordinance shall be in full force and effect.

**Sec. 22.09 PENALTIES**

Any violation of any provision of this Ordinance shall be dealt with under provisions of the Civil Infraction Ordinance.

**Sec. 22.10 EFFECT**

This Ordinance shall take effect thirty (30) days after the date of publication:

PUBLISHED on AUGUST 30, 2001

**ARTICLE 23**  
***OPEN SPACE PRESEVERATION***  
***CLUSTER DEVELOPMENT OPTION***

**Sec. 23.01 STATEMENT OF INTENT AND PURPOSE**

The purpose of this Article of the Zoning Ordinance is to comply with Public Act 177 of 2001, which amended the Township Zoning Act (MCL 125.286h).

It is the intent of this Article to allow and encourage alternate designs, which preserve Holton Township's character and environmentally sensitive elements, while providing housing communities that are desired by the community.

Open Space Communities shall promote the following objectives:

- Maintain the rural character of the Township.
- Maintain open space within the Township.
- Preserve natural resources within the Township.
- Preserve agriculture and farming within the Township.
- Achieve a balance between farming, open space and residential growth.

### **Sec. 23.02 SITE CRITERIA**

#### 1. Location of Open Space Communities

Open space clustering development may be located in districts allowing residential development including R-2, R-3, R-4, Agricultural and Forest-Recreational. Although clustering will be allowed in the Agricultural and Forest-Recreational Districts, these two districts were designed to preserve the integrity of the open space and farm land more than normal residential districts. Therefore, the number of lots allowed will be governed by the sliding scale formula provided for in these districts.

#### 2. Access

The open space community shall have direct access to an approved year round maintained public roadway or approved private road as defined in Article 11, Private Roads.

#### 3. Open Space Criteria

In all open space communities, at least two (2) of the following items must be present:

- a. Preservation of Natural Amenities - Sites preserving a significant quantity of any of the following:
  - 1) Organic Amenities: Significant views and vistas, mature woodlands, wetlands and lowland areas, prairie, bodies of open water (such as ponds, streams, natural drainage ways), wildlife habitat or corridors, and significant size trees (six to eight inches or more, measured five feet above the grade).
  - 2) Nonorganic Amenities: Farmhouses (viable for restoration and/or preservation), fence lines (stone or wood), buildings or foundations of historical value.
- b. Provisions for Recreational Facilities - The submittal should include both passive and/or active recreation areas for residents within the open space community. Passive recreation areas shall include areas such as pathway systems, common green areas of a substantial size, and open/preserves natural amenity areas, or other areas or uses consistent in nature. Active recreation areas shall include areas such as children play sets, sports fields (i.e., football, soccer, baseball), and other fitness areas that are consistent in nature.
- c. Creation of Natural amenities - These areas are to be constructed in a manner that replicates a natural setting. A percentage of these areas should remain "unmanicured," allowing natural growth and processes to occur. These areas can take a number of forms, such as woodlands (interior street tree plantings shall not count for this requirement), wildflower or grass meadows, constructed wetlands (preferably extension to an existing), or other areas consistent in nature.

- d. Preservation of Agriculture - Land uses, such as orchards, horse stables, active farms, or other similar agriculture uses, shall be preserved, where feasible or viable. In no way shall an intensive animal raising, slaughter house or similar use be allowed within an open space community. A buffer shall be maintained between the agriculture use and the residential units.

All of the above-mentioned areas shall be accessible or open to all residents within the open space community.

Under the open space community provision, the maximum number of lots shall be no greater than that normally permitted within the zoning district using the acreage specified for those residential districts. The specific number of lots and sizes shall be determined by the yield plan as approved by the Planning Commission. The Planning Commission will decide based on health and safety consideration for the specific parcel in question.

### **Sec. 23.03 SUBMISSION REQUIREMENTS**

1. Yield Plan

A "yield plan" which will be a preliminary site plan shall be prepared by the developer showing a feasible development under the requirements of the specific zoning district in which it is located and the requirements of any and all State, County and Township Subdivision regulations. All lots, roads and other improvements shall be designed so that they do not adversely impact wetlands, floodplains or drainage ways as regulated by Federal, State, County or local agencies.

If there is a question regarding water, septic, wetlands, floodplains or other physical land characteristics, the Planning Commission may request validation from the proper regulatory authority. If it is determined, through these responses, that the number of proposed lots is unfeasible, the yield plan shall be revised and resubmitted minus that number of lots. Detailed Engineering is not required at this stage.

The Planning Commission may also waive the submission of a yield plan if it is determined that the number of housing units proposed for open space development is, without question, well below what would be feasible for the site. All waivers must be by motion of the Planning Commission and shall meet the requirements of this Holton Township Master Plan and Zoning Ordinance.

2. Site Analysis.

A site Analysis Plan shall be submitted, showing the following site features:

- a. Wetlands, as determined by the Michigan Department of Environmental Quality
- b. Water areas, such as streams and ponds
- c. Woodlands and farmlands
- d. Soils and topography
- e. Drainage patterns and County drains
- f. Historic and cultural features
- g. Wildlife habitat corridors
- h. View sheds and view corridors
- i. Existing easements of record
- j. Existing and proposed rights-of-way
- k. Existing infrastructure

1. Adjacent development within two hundred (200) feet
3. Conservation Areas Plan.

The combination of the site analysis elements noted above shall be used to outline the primary and secondary conservation areas. The primary conservation areas include areas where no development is to occur. The secondary conservation areas are areas where development can occur, but special care must be taken to minimize adverse impacts.

- a. Primary Conservation Areas - floodplains, regulated wetlands, drainage ways, easements, 75 - foot exterior road buffer, or other exceptional elements.
  - b. Secondary Conservation Areas - farmlands, woodlands, suspected or marginal wetlands, tree lines, soils sensitive to development, soil prone to flooding, aesthetic views, etc.
  - c. Buildable Areas - areas that are not dedicated to primary conservation areas may be treated as buildable areas. Housing sites should be located so as to complement the conservation areas.
4. Open Space Plan.

An Open Space Plan, with the proposed housing layout shall not exceed the maximum number of housing units determined by the preliminary yield plan. The roads shall also be shown to provide interior access to all homes. At this stage, the drawings need not be engineered, only drawn to scale.

#### **Sec. 23.04 THE REVIEW PROCESS**

1. The Planning Commission shall confirm the accuracy and feasibility of the Open Space Plan noted above and determines that all provisions of Article 23 are met.
2. Planning Commission Determination.  
  
Upon approval, the final plan shall be handled as a special use/site plan process as specified in Article 13.06 and Article 19.
3. Upon denial, the developer may submit a plan under the existing land division process, Article 20, the Site Condominium Process number MS-1, 1998 or submit a new application for an open space community.

#### **Sec. 23.05 SITE DESIGN REQUIREMENTS**

1. Unless otherwise provided for in this Ordinance, all other applicable Zoning Ordinance provisions shall apply.
2. Minimum Lot Size - In all cases the minimum lot size shall be one acre unless served by public sewer. As an incentive to preserve more open space, the developer may reduce the lot size as follows:
  - a. R - 4 to R - 3
  - b. R -3 to R - 2
  - c. R - 2 to 1 acre
  - d. FOR to 6 acres
3. Minimum Yard Setbacks - As required by Ordinance

4. Development Layout - The development is encouraged to include roads that are single loaded, referring to homes alone only one side of the street. This type of development will allow for a greater number of views and vistas onto the open space or farmland.
5. Minimum Exterior Road Buffer - The developer shall preserve a minimum of a 75 foot buffer from the proposed right-of-way along any County Road or State Highway servicing the Open Space Development.
6. Minimum Open Space - A minimum of fifty (50%) percent of the gross land area shall be set aside for common open space uses.

Open space shall be defined as follows: All area within the open space development, not individually owned or part of a limited common area, which are designed and intended to preserve environmental features for the common use and enjoyment of the residents of the entire development for any of the following uses: recreation, forestry and/or open space conservation, community gardens, or agricultural uses. The open space requirements shall not be met by land uses such as golf courses or other exclusionary commercial recreational uses, lot area within setbacks for each specific lot, or land area dedicated as limited commons.

7. Maximum Amount of Unbuildable Land Use as Open Space - A maximum of fifty (50%) percent of the total open space allotment may be unbuildable land. Unbuildable land is considered to be land that is regulated by Michigan Department of Environmental Quality, or the Environmental Protection Agency, Army Corps of Engineers, or any other regulatory body which has jurisdiction over land which cannot be used for the construction of housing.
8. Houses Abutting the Open Space - A minimum of fifty (50%) percent of all dwelling units within the development shall abut or overlook the dedicated open space.
9. Access to Open Space - Access points or paths shall be provided to afford access to open space and common areas. These access points shall link the open space to the roadway, sidewalks, or the remainder of the development.
10. General Lot Character - Flag lots or panhandle lots shall not be permitted within an open space community.
11. Natural Area - An undisturbed greenbelt shall be required around any natural features or farmland preserved within the common open space areas.
12. Pedestrian Circulation - Adequate pedestrian circulation shall be provided by the applicant for on-site circulation. Adequate access shall be provided to all open space/recreational spaces from the residential areas. "Natural paths or bike paths" are encouraged within the development. Paths provided within the development shall be constructed of gravel, woodchip, or other similar material as approved by the Planning Commission.
13. Garages - Shall meet existing Ordinance requirements.
14. Overall Architectural Character - A diversity of single-family housing styles, colors, and configurations are encouraged throughout the development.

## **Sec. 23.06 ROADWAYS**

Shall meet the standards of Holton Township Private Road Ordinance Article 11.

**Sec. 23.07 DEDICATION OF OPEN SPACE**

The dedicated open space shall be set aside in an irrevocable conveyance that is acceptable to the Township Attorney and approved by the Planning Commission, such as the following:

1. A Conservation Easement, as established by the State of Michigan Conservation and Historic Preservation act, Public Act 197 of 1980, as amended (M.C.L. 399.251).
2. Master Deed, as established by the State of Michigan Condominium Act, Act 59 Public Act of 1978, as amended.
3. Distributed, gift or sale of the development rights to all property owners within the Open Space Community.
4. Recorded Deed Restrictions
5. Covenants that run perpetually with the land.

**Sec. 23.08 EFFECTIVE DATE**

APRIL 23, 2003

**ARTICLE 24**  
***SAND AND GRAVEL MINING ORDINANCE***

SHORT TITLE: An ordinance to adopt provisions to regulate sand and gravel mining within Holton Township, as an amendment to the Zoning Ordinance.

THE TOWNSHIP OF HOLTON HEREBY ORDAINS:

**Sec. 24.01 PURPOSE.**

To provide standards for the granting of a permit to remove sand and gravel within the Township.

**Sec. 24.02 SAND AND GRAVEL MINING AND RELATED LAND USE ACT**  
**ACTIVITIES AND STRUCTURES; SCOPE, PURPOSE AND INTENT**

Except as provided in this Ordinance, no sand, gravel, mining or excavation shall be permitted except for use on the premises on which it was taken. These provisions shall not apply to operations where less than a total of two hundred cubic yards of clean inert material per parcel is involved. All other such operations shall require a Special Use Permit, Sec.13.06, *et. seq.*, issued by the Planning Commission; the application shall include a development plan and rehabilitation plan. It shall first be submitted to the Planning Commission for review. Nothing in this section shall prevent the excavation or filling required to permit construction of one (1) detached single family dwelling and related accessory buildings by the owner on a single parcel of land. The following information shall be submitted!

**Sec. 24.03 SITE PLAN REVIEW**

Required for sand mining or filling of land, will be done by the Holton Township Planning Commission after review by, Muskegon County Road Commission, Muskegon County Health Department, Muskegon County Drain Commissioner, Muskegon Conservation District and the Holton Township Fire Department. All applicable fees will be the responsibility of the applicant. A site plan with eight (8) copies which shall include the following information shall be submitted with the request:

1. North point, scale and date.
2. Extent of the area to be excavated.
3. Location, width and grade of all easements or right of way on or abutting the property.
4. Location of all structures on the property.
5. Location of all areas on the property subject to inundation or flood hazard, and the location, width and directions of flow of all watercourses and flood control channels that may be affected by the excavation.
6. Processing and storage areas.
7. Proposed fencing, gates, parking and signs.
8. Ingress-egress roads, plus on site roads and proposed surface treatment and means to limit dust.
9. A map showing access routes between the property and the nearest arterial road.
10. Existing elevations at 5 foot contours of the total property. North-South and East-West directions and existing elevations of abutting properties at intervals of not more than one hundred (100) feet around the perimeter of property and one hundred (100) feet from property lines.
11. Typical cross-sections, showing the extent of over-burden, extent of sand and gravel deposits and the water table.
12. Areas to be used for ponds.

**Sec 24.04 REHABILITATION PLAN** A rehabilitation plan which shall include:

1. A statement of planning rehabilitation, including methods of accomplishment, and timing phasing.
2. A plan indicating: the final grade of the excavation; any water features including in the rehabilitation and methods planned to prevent stagnation and pollution; landscaping or vegetative planting; and areas of cut or fill. This plan, if clearly delineated, may be included with the site plan. For quarry application, the final grade shall mean the approximate planned final grade.
3. A phasing plan, if the excavation of the site is to be accomplished in phases. This plan shall indicate the area and extent of each phase and the approximate timing of each phase.
  - a. The method of disposing of any equipment or structures used in the operation of the excavation upon completion of the excavation
  - b. The name, address and signature of the property *owners* and applicant
  - c. A written legal description or record of survey of the property



- d. A surety in the form of a bond, cash deposit or deposit of negotiable securities and public liability insurance shall be provided to ensure conformance to Township operational and reclamation standards, In fixing the amount of such surety the Planning Commission shall take into account the size and scope of the operation, probable cost of rehabilitating the premises upon default of the operator, estimated expenses to compel the operator by Court decrees, and such other factors and conditions as might be relevant in determining the sum reasonable in light of all facts and circumstances surrounding each application for a permit.

#### **Sec. 24.05 REVIEW STANDARDS FOR APPROVAL**

The Planning Commission may consider the following factors in their review of the permit application:

1. The need for the removal, and alternate solutions not requiring removal.
2. The impact of the removal process and methods of removal on adjoining areas.
3. The extent and amount of removal of valuable surface topsoil, and destruction of land uses by the removal.
4. The increased hazards to neighbors, water, land or air.
5. The proposed plan complies with existing applicable County and State waste management plans and standards.
6. Whether the spirit and intent of the objectives of this, Zoning Ordinance would be preserved or promoted.
7. Operation Statement: An operational statement which shall include the following information,
8. The approximate date of commencement of the excavation and the duration of the operation.
9. Proposed hours and days of operation.
10. Estimate type and volume of the excavation.
11. Method of extracting and processing, including the disposition of any vegetative matter.
12. Equipment proposed to be used in the operation of the excavation
13. Operating practices proposed to be used to minimize noise, dust, air contaminants, vibration, soil erosion and sedimentation.
14. Methods to prevent pollution of surface or underground water

#### **Sec. 24.06 PERMIT TO FILL**

The Planning Commission will issue the permit to fill land, after it has determined: Materials comply with, Part 115 Solid Waste Management of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.11501 et seq. Part 115. Specifically, the types of materials that can be used include those either listed as inert materials under the provisions of R299.4114, Rule 114 of the administrative rules promulgated pursuant to part 115, or those qualified as inert materials under the provisions of R299.4115, Rule 115.

1. That such filling will not cause surface water to collect or to run off onto adjoining lands contrary to normal and natural drainage.
2. That such fill material will not unreasonably cause blowing dust, grime, fumes or odors.
3. That such fill will not decay or rot in such a manner as to cause holes or soft areas to develop in the lands so filled.
4. That, upon completion of such fill, the property will be left in such a condition that it may

- be property used for the use designated for the area in the Zoning Ordinance and maps.
5. That such flit shall not operate to inhibit light and air to the adjoining properties.
  6. That such filling operation will not be conducted before 7A.M. or after 6:00 P.M., local time.
  7. That the transportation of such fill material will be made in trucks or vehicles properly suited to such transport so that it will not be spread upon the highways and roads of the Township. Trucks shall use designated truck routes.
  8. That such fill will not cause any hazard or fire and that combustible materials shall not become any part of the fill material.
  9. A surety in the form of a bond, cash deposit or deposit of negotiable securities and public liability insurance shall be provided to ensure conformance to Township operational and reclamation standards. In fixing the amount of such surety the Planning Commission shall take into account the size and scope of the operation, probable cost of rehabilitating the premises upon default of the operator, estimated expenses to compel the operator by Court decrees, and such other factors and conditions as might be relevant in determining the sum reasonable in light of all facts and circumstances surrounding each application for a permit.

**Sec. 24.07 SEVERABILITY**

Should any section of this Ordinance be declared unconstitutional, such declaration shall not affect the validity of the remaining sections of this Ordinance.

**Sec. 24.08 ORDINANCE REPEAL**

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**Sec. 24.09 EFFECTIVE DATE**

This Ordinance shall become effective upon adoption. Date: February 27, 2009

## **ARTICLE 25**

### ***OFF STREET PARKING REQUIREMENTS***

#### **Sec. 25.01 PURPOSE**

The purpose of this chapter is to prescribe regulations for off-street parking of motor vehicles in residential and nonresidential zoning districts, to ensure by the provision of these regulations that adequate parking and access is provided in a safe and convenient manner, and to afford reasonable protection to adjacent land uses from light, noise, air pollution, and other effects of parking areas.

#### **Sec. 25.02 SCOPE**

1. At the time any building or structure is erected, enlarged, or increased in capacity, or uses established, off-street parking and loading spaces shall be provided in all zoning districts according to the requirements of this Article.
2. No parking or loading area or space which exists at the time of the adoption of this Chapter shall thereafter be relinquished or reduced in any manner below the requirements established by this Article.
3. Parking areas must be in the same zoning classification as the property it serves.
4. These regulations do not apply to properties and uses in the C2, Downtown Zoning District.

#### **Sec. 25.03 LOCATION OF PARKING AREAS**

1. For all residential uses, the number of parking spaces required by this Chapter shall be located on the same lot or parcel as the dwelling units served.
2. For all other uses, the number of parking spaces required by this Chapter shall be located on the same lot, or contiguous lots under the same ownership, within 300 feet of the building it is intended to serve, measured from the building to the nearest parking space.  
Parking on lots under different ownership within 300 feet of the building it is intended to serve shall also be permitted if such arrangement does not result in a parking deficiency for the other use, and a legal agreement specifying the terms for the parking arrangement, signed by all involved parties is provided.

#### **Sec. 25.04 GENERAL REQUIREMENTS**

1. Units of Measurement
  - a. For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
2. When units of measurement determining the number of required parking spaces result in a requirement of a fractional space, that fraction shall be counted as a full parking space.
  - b. Shared Parking and Mixed Occupancy
    - 1) In the case of mixed uses in the same building or on the same lot or parcel, the total requirements for off-street parking and loading shall be the sum of the requirements

for the individual uses computed separately.

- 2) Joint or collective provision of off-street parking areas for buildings or uses on two or more properties shall not be less than the sum of the requirements for the participating individual uses computed separately except that the Planning Commission may approve a lesser parking requirement for such uses if evidence of a signed agreement between the owners of both properties agreeing to such joint use is provided to the Planning Commission.

c. Parking Requirements for Uses Not Listed

The minimum parking space requirements for all uses shall be as listed in Section 25.07. For uses not specifically listed in Section 25.07, the Zoning Administrator may establish the parking requirement by making the determination that the proposed use is similar in parking requirements to a use which is listed in Section 25.07.

**Sec. 25.05 DESIGN, LOCATION, AND CONSTRUCTION REQUIREMENTS**

The following regulations shall apply to all uses except one and two family dwellings and farm uses.

1. Parking Lot Surface and Drainage. Parking lots shall be surfaced with 22a compacted gravel or equivalent and shall be graded and drained to dispose of all surface water and prevent drainage onto abutting properties. The Planning Commission may approve alternate parking lot surfaces which are dustless and which allow for storm water drainage directly through the parking surface or other similar surface.

2. Lighting

Lighting fixtures used to illuminate off-street parking areas and the area adjacent to buildings served by these parking lots shall be equipped with cut-off fixtures and arranged as to direct light downward away from any adjoining properties or streets and highways. Lighting fixtures in required parking facilities for commercial or industrial districts or non-residential uses within 150 feet of a Residential Zoning District or an area recommended for such use in the Township Master Plan shall not exceed 23 feet in height. All other fixtures shall not exceed 35 feet in height. Light fixtures shall be designed to achieve total luminary

3. Greenbelts

Where off-street parking areas for non-residential uses abut or are across the street from property which is zoned or planned for residential use, a greenbelt not less than 16 feet wide shall be provided adjacent to the parking area. The greenbelt shall consist of four trees for every 50 feet of the length of the parking lot abutting the adjacent property or road. The trees shall be a mix of evergreen and deciduous trees with a minimum height of six feet for evergreen trees and a minimum caliper of two inches for deciduous trees.

However, the Planning Commission in its review of the site plan has the authority to increase, decrease or otherwise modify the above landscaping requirements of this article. In doing so, the Commission shall consider the following criteria:

- a. The amount of space on the site available for landscaping.

- b. Existing landscaping on the site and on adjacent properties.
- c. The type of use on the site and size of the development.
- d. Existing and proposed adjacent land uses.
- e. The effect the required landscaping would have on the operation of the existing or proposed land use.

4. Driveways

Driveways serving off-street parking areas shall be at least 20 feet from any residentially zoned property although the Planning Commission may reduce this distance if so recommended by the Muskegon County Road Commission.

5. Parking Lot Setback

All off-street parking areas, except those serving residential dwellings with less than five dwelling units, shall be set back a minimum of five feet from the rear and side lot lines, and a minimum of 15 feet from the front lot line. The Planning Commission may permit parking aisles or vehicle maneuvering areas to encroach within the parking setback where substantial additional screening or landscaping acceptable to the Planning Commission is approved.

6. Pedestrian Protection

Parking lots shall be designed to limit the number of points where pedestrians must cross in front of vehicles. In particular, vehicle access in front of building entrances and exits should be minimized. Landscaped pedestrian walkways to and from parking areas may be required to enhance pedestrian safety.

7. Traffic Islands

Parking areas shall be designed to delineate access aisles or drives and to provide drivers proper sight distance at the end of parking rows where such rows intersect access aisles or drive. The Planning Commission may require traffic islands, striped pavement or other methods to achieve this.

8. Uses Permitted

Off-street parking areas shall not be used for repair, dismantling or serving of motor vehicles.

**Sec. 25.06 SIZE OF PARKING SPACE AND AISLE**

Off-street parking spaces and aisles for various parking angles shall be designed and constructed in accordance with the minimum standards provided in Table 25-1.

**TABLE 25-1  
MINIMUM STANDARDS FOR SIZE OF PARKING AISLES AND DRIVEWAYS**

Parking Angle	Maneuvering Aisle Width		Parking Stall Width	Parking Stall Length	Total Width of 2 Stalls of Parking Plus Maneuvering Aisle	
	One Way	Two Way			One Way	Two Way
0° parallel	12 feet	22 feet	8.5 feet	22 feet	29 feet	39 feet
Up to 53°	13 feet	22 feet	9.0 feet	18 feet	49 feet	58 feet
54° to 74°	23 feet	22 feet	9.0 feet	18 feet	52 feet	58 feet
75° to 90°	12 feet	25 feet	9.0 feet	18 feet	48 feet	60 feet

**Sec. 25.07 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS**

Each use shall provide spaces in conformance with the following schedule of requirements:

<u>Use</u>	<u>Number of Motor Vehicle Parking Spaces Required per Unit of Measure</u>
<b><i>a) Residential</i></b>	
1) Single family, two families, or multiple families with three or more bedrooms.	Two for each dwelling unit.
2) Multiple families with one or two bedrooms.	Two for each two bedroom dwelling unit and 1.5 for each one bedroom dwelling unit.
3) Efficiencies	One for each dwelling unit.
4) Mobile Home Parks	Two for each mobile home or mobile home site.
5) Elderly housing or retirement communities.	For independent living units, one for each unit. For “interim” or “intermediate care” units, one for each two beds, plus one per employee. Should the units revert to another use, and then the required parking shall be re-determined based on the new use.
6) Bed and breakfast, boarding houses.	One for each guest room plus two for the dwelling unit.
<b><i>b) Institutional/Public Assembly</i></b>	
1) Churches, temples, mosques, synagogues, or similar types of facilities.	One space per each four seats in the worship room.
2) Hospitals.	One for each two beds plus one for each staff doctor, plus one for each two employees other than doctors.
3) Outpatient care stations.	Two spaces per exam room/station or procedure/operating room, plus one space per laboratory or recovery room plus one per employee.

4) Child Care Centers.	One space for every eight children of licensed capacity, plus one space for each employee. A minimum of three employee spaces shall be required.
5) Elementary, junior high, middle schools.	Two spaces per classroom, plus one and space for each three seats of maximum seating capacity for that indoor place of assembly having the greatest seating capacity.
6) High schools.	Eight spaces per classroom, or one space per each four seats of maximum seating capacity for that indoor place of assembly having the greatest capacity, whichever is greater.
7) Private club and lodges.	One space per 2.5 persons allowed within the maximum occupancy load as established by the appropriate fire, health, or building code.
8) Auditoriums (non-school), stadiums, and sports arenas.	One space per each three seats.
9) Conference rooms, exhibit halls, halls, ballrooms, civic clubs, or similar places of assembly without fixed seats whether public or private.	One space per each four persons allowed within the banquet maximum occupancy load as determined by the Township building or fire codes.
10) Libraries, museums, and non-commercial art galleries.	One parking space per 400 square feet of gross floor area.
<b>c) Offices</b>	
1) Medical/dental clinics or offices.	Four spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required.
2) General office buildings.	One space per 300 square feet of gross floor area. A minimum of four spaces shall be required.
3) Banks, credit unions, or savings and loans.	Six spaces per 1,000 square feet of gross floor area, plus two spaces per each non-drive-through automatic teller plus four on-site waiting spaces for each drive up window or drive through automatic teller.
<b>d) Retail and Service Uses</b>	
1) Retail shopping centers, discount stores, and department stores.	Four spaces per 1,000 square feet of stores, and usable floor area.
2) Other retail uses not otherwise specified herein.	One space per 200 square feet of usable floor area plus one per employee.
3) Supermarkets and grocery stores.	One space per 200 square feet of usable floor area.
4) Personal service establishments not otherwise provided herein.	One space per each 300 square feet of usable floor area plus one per employee.

5) Appliance stores.	Four spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required.
6) Automobile service stations.	Two parking spaces per each service bay, plus one per each per each employee, plus one per each 200 square feet of retail area. A service bay and the area on each side of a gas pump may count as a parking space.
7) Automobile wash establishments (automatic).	One parking space per each employee, plus fifteen on-site waiting spaces at each wash-bay entrance, plus two drying spaces at the exit.
8) Automobile wash establishments (self-service).	One parking space per each employee, plus three on-site waiting spaces at each wash-bay entrance.
9) Barber shops, beauty salons.	Two for each barber or beauty operator chair/station plus one for every two employees.
10) Building supply store, home improvement store, paint and hardware store containing up to 25,000 square feet of gross floor area.	One space per 200 square feet of usable floor area plus one for each employee.
11) Building supply store, home improvement store, paint and hardware store with more than 25,000 square feet of gross floor area.	Three and one-half spaces per 1,000 square feet of usable floor area plus one for each employee.
12) Convenience stores.	Four spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required.
13) Dry cleaners.	Two spaces per 1,000 square feet of gross floor area. A minimum of four spaces shall be required.
14) Funeral homes and mortuaries.	One space per 50 square feet of parlor and chapel areas.
15) Furniture, carpet, and home furnishing stores.	One space per 800 square feet of usable floor area.
16) Hotel, motel, or other commercial lodging establishment.	One space for each guest room, plus one for each two employees, plus amount required for accessory uses provided at the rate of fifty percent of the requirements for such uses as specified herein.
17) Laundromats.	One space per each three washing machines.
18) Mini-storage houses/warehouses.	Six spaces.
19) Motor vehicle dealerships.	One space per 5,000 square feet of outdoor sales area, plus one space per sales desk/office, plus three spaces per service bay. A minimum of six spaces shall be required.
20) Quick oil change establishments.	Two spaces per bay plus one per each



	employee.
21) Recreational vehicle and boat dealerships.	One space per 800 square feet of gross floor area, plus two spaces per each vehicle service bay. A minimum of six spaces shall be required.
22) Restaurants that serve non-fast food and have no drive-through window.	Twelve spaces per 1,000 square feet of gross floor area, or 0.4 spaces per seat, whichever is greater.
23) Restaurants that serve mostly take out, with six or less booths or tables.	Six spaces plus one for each employee.
24) Restaurants that serve fast food and have no drive through window.	Seven spaces per 1,000 square feet of gross floor area.
25) Restaurants that serve fast food and have a drive through window and indoor seating.	Fifteen spaces per 1,000 square feet of gross floor area, plus three designated drive through, short term waiting spaces plus 10 on site waiting spaces.
26) Restaurants that serve fast food and have a drive through window, but no indoor seating.	Fifteen spaces.
27) Video rental stores.	One space per each 100 square feet of gross floor area plus one per each employee.
28) Service companies doing repair.	Two spaces per 1,000 square feet of electrical and plumbing work gross floor area. A minimum of five spaces shall be required.
<b>e) Recreational Entertainment</b>	
1) Arcades.	One space for every 70 square feet of gross floor area. A minimum of six spaces shall be required.
2) Batting cage facilities.	Three spaces per cage.
3) Bowling centers.	Five spaces per bowling lane plus 50 percent of the spaces otherwise required for accessory uses such as restaurants, bars, banquet facilities, etc.
4) Golf driving ranges.	One and one-half spaces per tee.
5) Golf courses, miniature.	One and one-half spaces per each hole.
6) Golf courses, par-three.	Three spaces per hole.
7) Golf courses.	Five spaces per hole.
8) Health fitness centers.	Five spaces per 1,000 square feet of gross floor area.
9) Movie theaters.	One space per each four seats, plus four spaces per screen.
10) Racquetball and tennis centers.	Five spaces per 1,000 square feet of gross floor area or six spaces per court, whichever is greater.
11) Public recreation centers.	Five spaces per 1,000 square feet of gross floor

	area.
12) Roller/ice skating rink.	Six spaces per 1,000 square feet of gross floor area.
<b><i>f) Industrial Uses</i></b>	
1) Manufacturing, light industrial, and research establishment.	One and one-half parking spaces per 1,000 square feet of gross floor area.
2) Wholesale, warehouses, or distribution facilities, and trucking terminals.	One parking space per each 1,500 square feet of gross floor area or one per employee whichever is greater.

***g) Deferred Parking Construction***

In order to avoid excessive amounts of impervious surface, the Planning Commission may approve a development which provides less than the minimum number of parking spaces required herein if the applicant provides evidence to the Planning Commission that the parking proposed on the site for the use is sufficient to meet the parking needs of those who will patronize the use as well as the parking needs for employees during the largest working shift.

Such evidence may consist of: arrangements for nearby shared parking; evidence from the parking history of the proposed use or a use similar to the proposed use at other locations or; that there is sufficient space on the site for the required parking to be provided if it becomes necessary at a later time.

**Sec. 25.08 BARRIER FREE PARKING AND DESIGN REQUIREMENTS**

a) Barrier free parking shall be provided as follows:

<b><u>Total Parking in Lot</u></b>	<b><u>Minimum Number of Accessible Spaces Required</u></b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	8
301 to 400	12

b) Requirements for barrier free parking spaces, curb, ramps, and signs shall be as required by the Township Building Code and the Michigan Barrier Free Rules.

**Sec. 25.09 OFF-STREET LOADING REQUIREMENTS**

- a) Off-street loading spaces shall be provided in size and quantity sufficient to prevent interference with adjacent streets or required off-street parking areas.
- b) Required loading spaces shall not be included in the count of off-street parking spaces.

- c) Loading spaces shall not use any portion of any public right-of-way except those properties in the C2, Downtown Zoning District shall be exempt from this requirement.
- d) Maneuvering space for trucks using the loading spaces shall be provided on premise1 and shall not necessitate the use of public right-of-way.
- e) The design, location, and screening of off-street loading areas shall be reviewed at the time of site-plan approval to ensure adequate protection is afforded adjacent properties, especially residential districts
- f) Off-street loading spaces shall be no closer than 50 feet to any Residential Zone unless such space is wholly within a completely enclosed building or enclosed on all sides by a wall or a uniformly painted solid board or masonry fence of uniform appearance not less than six feet in height.

**ARTICLE 26**  
***SITE CONDOMINIUM SUBDIVISIONS***

## **Sec. 26.01 PURPOSE AND SCOPE**

Site condominium subdivisions are developments utilizing land division on the basis of condominium ownership. Such developments are not regulated by the Land Division Act, Public Act 288 of 1967 as amended and therefore the review and approval procedures required by that Act are not applicable. The purpose of these regulations is to set forth the procedures under which site condominium subdivisions are to be reviewed in Holton Township.

## **Sec. 26.02 DEFINITIONS**

In addition to the definitions contained in Article 12 the following words and terms are defined for use in this Section:

**Building Envelope** - The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium. In a single-family residential site condominium project, the building envelope refers to the area of each condominium unit within which the dwelling and any accessory structures may be built.

**Condominium Act** - Public Act 59 of 1978, as amended.

**Condominium Project** - A plan or project consisting of not less than two condominium units if established and approved in conformance with Condominium Act.

**Condominium Structure** - The principal building or structure intended for or constructed upon a lot or building envelope, together with any attached accessory structures; e.g. in a residential development, the condominium structure or building envelope would refer to the house and any attached garage.

**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, or recreational use as a time-share unit, or any other type of use.

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

**Expandable Condominium** - A condominium project to which additional land may be added in accordance with the Condominium Act.

**General Common Element** - The common elements other than the limited common elements

**Limited Common Element** - An area which is appurtenant to a site condominium unit and which is reserved in the master deed for the site condominium development for the exclusive use of the owner of the site condominium unit.

**Lot:**

1. A condominium unit consisting of the area under a building envelope and the contiguous area around the building envelope which, by itself, meets the minimum area and yard requirements for lots as set forth for the various districts in this Ordinance.
2. The contiguous limited common element under and surrounding a condominium unit that is or shall be assigned to the owner(s) of the condominium unit, for the owner(s) exclusive use, and which, together with the condominium unit, meets the minimum area and yard requirements for lots as set forth for the various districts in this Ordinance.

**Master Deed** - The legal document prepared and recorded pursuant to Public Act 59 of 1978, as amended, to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

**Site Condominium Subdivision** - A division of land on the basis of condominium ownership which is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended.

### **Sec. 26.03 ZONING COMPLIANCE**

Site condominium projects may be approved in any zoning district. All site condominium lots and structures shall conform to the use, size, height, frontage, lot area, front, side and rear yards, general and special regulations applicable to the use and zoning district in which they are located

For the purposes of determining compliance with this Ordinance, each condominium unit and its appurtenant limited common element shall be considered the equivalent of a lot as defined in Article 12 and Section 25.02 herein.

**Sec. 26.04 SITE CONDOMINIUM PLANS – REQUIRED CONTENT** – All site condominium plans submitted for approval shall be drawn to a scale of not more than 100 feet to one inch unless a smaller scale is approved by the Planning Commission and shall contain the following information:

The name or title of the proposed site condominium.

Legal description of the proposed project.

1. The name, address and telephone number of the Proprietor, developer, record owner and sub divider.
2. The size, shape, area and dimensions of each condominium unit, including the building envelope as well as the limited common areas appurtenant to each site condominium unit along with the location, size, shape, area and intended use of general common elements within the site condominium.
3. Location and size of all existing and proposed public water, sanitary sewer, fire hydrants and other facilities.
4. A storm drainage and storm water management plan, including all lines, drains, basins, and other facilities. Illustrate the direction of storm water drainage as well as a statement describing where storm water will be ultimately discharged such as a creek, stream, lake or wetland or retained on site.

5. Location of utility and drainage easements.
6. A small scale vicinity map showing location of project within the Township, and the name and location of abutting subdivisions.
7. The location dimensions and approximate grade and radius of proposed and existing streets, alleys and highways included in the plat.
8. The location of all existing features affecting the subdivision, such as railroads, expressways, buildings, trees, ditches, watercourses and other physical features.
9. If the proposed project is contiguous to other lands owned by the applicant, a map showing the street layout and access for subsequent development.
10. If the proposed subdivision is not to be served by public sewer and water systems, a written statement from the Muskegon County Health Department regarding the suitability of the soils for on-site septic systems.
11. The location of the 100 year floodplain, as established by the State Department of Natural Resources, shall be shown within a contour line.
12. Any proposed covenants and deed restrictions to be imposed upon the use of property in the subdivision or a statement in writing that none are proposed. If common areas are to be reserved for use by the residents of the subdivision, copies of an agreement indicating how the area will be maintained shall be submitted.
13. Property lines, dimensions, and building setback distances and all structures, lot lines and wetlands within 100 feet of the site.
14. Existing and proposed topographic elevations at two foot intervals on the site and to a distance of 50 feet outside the boundary lines of the site.
15. Location of abutting streets, rights-of-way, service drives, curb cuts, and access easements serving the site, as well as driveways opposite the site and driveways within one hundred (100) feet on either side of the site. Also driveway width, curb radii and design of proposed deceleration lanes.
16. Street lighting, if any, including the type of fixture as well as method of shielding illumination from adjacent properties and roadways.
17. Location and type of significant existing vegetation, water courses, and water bodies including county drains and manmade surface drainage ways, floodplains, and wetlands.
18. Location of existing and proposed slopes which are 20 percent or greater, which may be altered by the development or the construction of buildings within the development.
19. Zoning and use of the proposed subdivision and on adjacent properties.

**Sec. 26.05 STREETS**

1. Private Streets - All private streets in a site condominium shall be constructed to the standards of the Holton Township Private Road requirements herein.
2. Public Streets - All public streets in a site condominium shall be constructed to the standards required by the Muskegon County Road Commission for platted streets.

#### **Sec. 26.06 UTILITIES**

Extension and provision of utilities shall be provided as may be required by the Township Board as conditions of approval. The site condominium plans shall include all the necessary easements granted to Holton Township, Muskegon County or others for the purpose of constructing, operating, inspecting, maintaining and repairing all utilities.

Holton Township may require the developer to enter into an agreement with the Township for the imposition of a special assessment for the construction of sewer and water lines and street lights within the site condominium project.

#### **Sec. 26.07 PROCEDURES**

The Holton Township Board must review and approve all site condominium projects before improvements are initiated and before the Master Deed is recorded. The review process shall consist of the following steps:

1. Step 1- Preliminary Plan Review by Planning Commission
  - a. An application for review of a preliminary site condominium plan shall be initiated by submitting a minimum of nine copies of the plan to the Township Zoning Administrator or such person as designated by the Township Board along with an application and fee schedule established by the Township Board. Plans submitted for the preliminary review shall include the information required in Section 26.04 herein.
  - b. As part of the review, the Planning Commission shall hold a public hearing on the preliminary plan. The Commission, may, however, review the plan prior to the public hearing in order to provide direction to the applicant in preparing the plan for the hearing. For such hearing, notice shall be given as required by Section 16.01C herein.
  - c. The Planning Commission shall review the preliminary site condominium plan in accordance with the standards and requirements of this Article and the requirements of Article IV of the Township Subdivision Ordinance and the applicable requirements of the Township Zoning Ordinance. All of the requirements for plats, as set forth in Article IV of the Township Subdivision Ordinance, shall be requirements for site condominium projects
  - d. In its review of a site condominium plan, the Planning Commission may consult with the Zoning Administrator, Township Attorney, Township Engineer, Township Fire Chief, Township Planner or other appropriate persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, development, layout and design, and other aspects of the proposed project.
  - e. Preliminary plans as applicable shall be submitted to the Muskegon County Health

Department, Muskegon County Road Commission, Muskegon County Drain Commissioner, Michigan Department of Natural Resources and other appropriate agencies having direct approval or permitting authority over all or any part of the plan. Approval of a site condominium plan shall not be considered to be final until the plan is fully in compliance with the requirements of the reviewing agencies.

- f. After reviewing the preliminary site condominium plan, the Planning Commission shall prepare a written statement of recommendations regarding the proposed site condominium project, including any suggested or required changes in the plan. The Planning Commission shall provide a copy of its written recommendations to the applicant and to the Township Board.

Any revisions to the preliminary plan as required by the Planning Commission shall be made by the applicant and reviewed by the Planning Commission before the plan is forwarded to the Township Board

## 2. Step 2- Final Plan Review by Township Board

- a. After revising the plan according to the Planning Commission's recommendations the applicant shall submit to the Township Clerk a minimum of 8 copies of the final site condominium plan. The Township Clerk shall forward the copies of the final plan to the Township Board.
- b. The Township Board shall review and may approve, deny or approve with conditions the plan in accordance with the standards and requirements provided by Article IV of the Township Subdivision Ordinance and other applicable procedures, standards and requirements provided by this section.

Approval of a site condominium project shall serve as conditional authorization to proceed with the division of the land on the basis of condominium ownership and the construction of the required improvements to the land in conformity with the approved plans. Site condominium approval shall not serve as the authorization of land uses and construction on individual units within the site condominium. Uses and construction on individual units are subject to authorization under applicable provisions in this Ordinance.

### **Sec. 26.08 MASTER DEED CONTENTS**

All provisions of the site condominium plans which are approved by the Holton Township Board must be incorporated as part of the approved Master Deed for the site condominium. A copy of the Master Deed as recorded with the Muskegon County Register of Deeds must be provided to the Holton Township Clerk within 10 days after recording.

### **Sec. 26.09 PERFORMANCE GUARANTEES**

A deposit in the form of cash, certified check, or irrevocable bank letter of credit shall be deposited with Holton Township to guarantee the installation and completion of common improvements associated with the project such as public streets, street lights, sanitary sewer, water supply, drainage facilities, and sidewalks. The amount of the deposit shall be not less than the estimated cost of the improvements.

### **Sec. 26.10 CONSTRUCTION IN COMPLIANCE WITH APPROVED FINAL SITE**



## **CONDOMINIUM PLAN**

No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a proposed site condominium project except in compliance with a final site condominium plan as approved by the Township Board, including any conditions of approval.

### **Sec. 26.11 COMMENCEMENT OF CONSTRUCTION; ISSUANCE OF PERMITS**

No building permit shall be issued, and no public sewer or public water service shall be provided for any dwelling or other structure located on a parcel of land established or sold in violation of this chapter. The sale or the reservation for sale, of site condominium units shall be as regulated by the Condominium Act. No building in a site condominium may be occupied or used until all required improvements in the site condominium project have been completed and all necessary utilities installed.

### **Sec. 26.12 EXPANDABLE OR CONVERTIBLE CONDOMINIUM DEVELOPMENTS**

Approval of a final site condominium plan shall not constitute approval of expandable or convertible portions of a site condominium project unless the expandable or convertible areas were specifically reviewed and approved by the Planning Commission and Township Board in compliance with the procedures, standards and requirements of this section.

### **Sec. 26.13 CHANGES IN CONDOMINIUM DEVELOPMENTS**

Any change proposed for a final site condominium plan which has previously been approved shall be regulated by this section.

The following definitions shall apply:

**1. “Exempt change” means a change to a site condominium project (other than a major or minor change) that is exempt from review and approval as required for major or minor changes under this chapter. Exempt changes shall be limited to the following:**

- a. a change in the name of the project; in the name of a street within the project; or in the name of the developer;
- b. a change in the voting rights of co-owners or mortgagees;
- c. or any other change in the site condominium which, as determined by the Zoning Administrator, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout, topography or any other aspect of a which is subject to regulation.

**2. “Major change” means a major change in the site configuration, design, layout or topography of a site condominium project (or any portion thereof), including any changes that could result in:**

- a. an increase in the number of site condominium units;
- b. any other change in the site configuration, design, layout, topography, or other aspect of

the project which is subject to regulation under this Zoning Ordinance, including, without limitation, a change in the location of streets and utilities, or in the size, location, area, horizontal boundaries or vertical boundaries of a site condominium unit, and which is determined by the Zoning Administrator to constitute a major change to the site condominium project.

**3. “Minor change” means a minor change in the site configuration, design, layout or topography of a site condominium project (or any portion thereof), including any changes that will result in:**

- a. a decrease in the number of site condominium units;
- b. a reduction in the area of the building site for any site condominium unit; a reduction of less than 10 percent in the total combined area of the general common elements of the site condominium;
- c. a reduction in the total combined area of all limited common elements of the site condominium;
- d. any other minor variation in the site configuration, design, layout, topography or other aspect of which is subject to regulation under this Zoning Ordinance, and which, as determined by the Zoning Administrator, does not constitute a major change.

Any change which constitutes a major change shall be reviewed by the Planning Commission, at a public hearing and with the notice required for an original approval of the site condominium, and shall also be reviewed and approved by the Township Board, as provided in this section for the original review and approval of preliminary and final plans.

Any change which constitutes a minor change shall be reviewed and approved by the Zoning Administrator, but in the discretion of the Administrator, any such minor change may be reviewed and approved by the Planning Commission, at a public meeting, but without the public hearing or mailed notice requirement otherwise provided in this section for an original approval.

Any change which constitutes an exempt change shall not be subject to review by the Township under this chapter, but a copy of the exempt change shall be filed with the Township Clerk.

**Sec. 26.14 TIME LIMIT**

No approval of a final site condominium project plan shall be effective for a period of more than one year, unless construction of the project commences within that one year period and is diligently pursued to completion in accordance with the terms and conditions of the approval. This one year period may be extended for additional periods of time as determined appropriate by the Township Board if the extension is applied for by the applicant within the effective period of the approval.

**Sec. 26.15 VARIANCES**

As stated in subsection Section 26.07(a) (3) of this Article, site condominiums are subject to the requirements for platted subdivisions as stated in Article IV of the Township subdivision ordinance. Further, as stated in Section 26.07(b)(2) of this Article, the Township Board is to review, and then approve, deny or approve with conditions, a site condominium plan in accordance with the standards and requirements stated in Article IV of the Township subdivision ordinance.

A variance, however, may be granted from the provisions of said Article IV of the Township subdivision ordinance, with respect to a site condominium project or any part thereof. Such a variance may be granted by the Township Board after recommendation thereon by the Planning Commission, and upon a determination that practical difficulty or unnecessary hardship would result from compliance with a provision of said Article IV.

1. For purposes of this section, practical difficulty shall mean a difficulty or impossibility involving the topography or other physical features of the land. Unnecessary hardship shall mean a condition of impracticability or unreasonableness that would result from the application of a provision of said Article IV with respect to a site condominium project, site condominium unit or any part thereof.
2. In determining whether to grant a variance under the terms of this subsection, the Township Board may depart from the recommendation thereon made by the Planning Commission.
3. In considering whether a variance shall be recommended, in the case of the Planning Commission, and in considering whether a variance shall be granted, in the case of the Township Board, each body shall consider and make findings upon the following:
  - a. That there are special circumstances or conditions affecting the property, that would make the strict application of a provision of said Article IV impracticable or unreasonable.
  - b. That the granting of the requested variance would not be detrimental to the site condominium development or to adjacent or nearby lands.
  - c. That the granting of the requested variance, when implemented, would not violate or be contrary to a provision of any other chapter of this ordinance.
  - d. That the granting of the requested variance would not violate any provision of the Michigan Condominium Act.
4. A variance from any other provision of this section, not involving said Article IV of the subdivision ordinance, shall be considered by the Board of Zoning Appeals, in accordance with the applicable provisions of this ordinance concerning the Board of Zoning Appeals.

## **ARTICLE 27**

### ***SUBDIVISION CONTROL ORDINANCE***

THE TOWNSHIP BOARD OF THE TOWNSHIP OF HOLTON, MUSKEGON COUNTY,  
MICHIGAN HEREBY ORDAINS:

**Sec. 27.01 LEGAL BASIS; PURPOSE**

This Ordinance is enacted pursuant to Public Act 288 of 1967, as amended, the Land Division Act of 1967. ("Act 288") This Ordinance is intended to provide for the proper and orderly subdivision of land in the Township, to provide for adequate and essential public improvements and utilities, and to promote the public health, safety and welfare.

**Sec. 27.02 FEE SCHEDULE**

Any person filing a plat pursuant hereto shall pay fees established from time to time by resolution of the Township Board, and until the fee is paid the plat shall not be considered or reviewed.

**Sec. 27.03 DEFINITIONS**

All terms herein shall have the meanings and definitions given by Act 288.

**Sec. 27.04 SCOPE AND CONFLICT**

The provisions of this Ordinance apply to all platted subdivisions of land within the Township. Where this Ordinance provides a standard stricter than that required by Act 288, this Ordinance shall control.

**Sec. 27.05 CERTIFICATION OF PLATS AND DRAWINGS**

All plats and drawings submitted hereunder shall be prepared and sealed by a registered surveyor and/or engineer, as applicable.

**Preliminary Plat Application and Review Procedure**

**Sec. 27.06 SUBMISSION OF PLATS**

The Proprietor of any land proposed to be subdivided shall submit 8 copies of a preliminary plat, together with supplementary documents, containing the information required by Act 288 and this Ordinance, to the Township Zoning Administrator or such person as may be designated by the Township Board who shall forward the plans to the Planning Commission for its next meeting.

**Sec. 27.07 PRELIMINARY PLAT; REQUIRED INFORMATION**

The following information shall be submitted for tentative approval of the preliminary plat. Maps shall be at a scale of not more than 100 feet to one inch.

1. The name or title of the proposed subdivision.
2. Legal description of the proposed project.
3. The name, address and telephone number of the Proprietor, developer, record owner and sub-divider.
4. The dimensions of each lot including required setback lines.

5. Location and size of all existing and proposed public water, sanitary sewer, fire hydrants and other facilities.
6. A storm drainage and storm water management plan, including all lines, drains, basins, and other facilities. Illustrate the direction of storm water drainage as well as a statement describing where storm water will be ultimately discharged such as a creek, stream, lake or wetland or retained on site.
7. Location of utility and drainage easements.
8. A small scale vicinity map showing location of project within the Township, and the name and location of abutting subdivisions.
9. The location, dimensions and approximate grade and radius of proposed and existing streets, alleys and highways included in the plat.
10. The location of all existing features affecting the subdivision, such as railroads, expressways, buildings, trees, ditches, watercourses and other physical features.
11. If the proposed project is contiguous to other lands owned by the applicant, a map showing the street layout and access for subsequent development.
12. If the proposed subdivision is not to be served by public sewer and water systems, a written statement from the Muskegon County Health Department regarding the suitability of the soils for on-site septic systems.
13. The location of the 100 year floodplain, as established by the State Department of Natural Resources, shall be shown within a contour line.
14. Any proposed covenants and deed restrictions to be imposed upon the use of property in the subdivision or a statement in writing that none are proposed. If common areas are to be reserved for use by the residents of the subdivision, copies of an agreement indicating how the area will be maintained shall be submitted.
15. Property lines, dimensions, and building setback distances and all structures, lot lines and wetlands within 100 feet of the site.
16. Existing and proposed topographic elevations at two foot intervals on the site and to a distance of 50 feet outside the boundary lines of the site.
17. Location of abutting streets, rights-of-way, service drives, curb cuts, and access easements serving the site, as well as driveways opposite the site and driveways within 100 feet on either side of the site. Also driveway width, curb radii and design of proposed deceleration lanes.
18. Street lighting, if any, including the type of fixture as well as method of shielding illumination from adjacent properties and roadways.
19. Location and type of significant existing vegetation, water courses, and water bodies including county drains and manmade surface drainage ways, floodplains, and wetlands.
20. Location of existing and proposed slopes which are 20 percent or greater, which may be altered by the development or the construction of buildings within the development.

21. Zoning and use of the proposed subdivision and on adjacent properties.

**Sec. 27.08 TENTATIVE PRELIMINARY PLAT; TENTATIVE APPROVAL PROCEDURE**

1. A preliminary plat shall be referred to the Planning Commission, which shall consider it and make a recommendation to the Township Board. Such consideration and recommendation shall take place following a public hearing by the Planning Commission on the preliminary plat. For such hearing, notice shall be given in accordance with Section 16.01C of the Holton Township Zoning Ordinance.
2. The Planning Commission shall recommend approval, approval with conditions, or disapproval of a plat within 63 days after the plat is submitted to the Planning Commission. If applicable standards under the State of Michigan Land Division Act, 1967 PA 288, MCL 560.101 to 560.293, and the requirements of the Holton Township Subdivision Ordinance are met, the Planning Commission shall recommend approval of the plat.

If the Planning Commission fails to act within the required period, the plat shall be considered to have been recommended for approval, and a certificate to that effect shall be issued by the Planning Commission upon request of the proprietor.

However, the proprietor may waive this requirement and consent to an extension of the 63-day period. The grounds for any recommendation of disapproval of a plat shall be stated upon the records of the Planning Commission.

The preliminary plat, together with minutes showing the action of the Planning Commission thereon, shall be referred to the Township Board.

3. The Township Board shall grant tentative approval of or shall disapprove the preliminary plat not later than 90 days after the preliminary plat was first submitted by the proprietor provided all information as required for submission of the preliminary plat has been submitted by the applicant. Such time period may be extended with the consent of the applicant.

If the preliminary plat is not approved, the Township Board shall set forth in writing its reasons for rejection. The Township Board shall record its approval or disapproval on the plat and return one copy to the Proprietor.

4. Tentative approval under this section shall confer upon the Proprietor, for a period of one year, approval of lot sizes, lot orientation and street layout. The duration of such tentative approval may be extended by the Township Board.

**Sec. 27.09 PRELIMINARY PLAT; FINAL APPROVAL PROCEDURE**

1. Following tentative approval of the preliminary plat by the Township Board, the Proprietor shall:
  - a. Submit the preliminary plat to all other reviewing authorities as required by Act 288.

- b. Submit a list of all such authorities to the Township Clerk, certifying that the list shows all approving authorities as required by Act 288.
  - c. Submit all approvals to the Township Clerk after they have been secured.
- 2. Following a determination that all required approvals have been secured, the Clerk shall forward the approved copies of the preliminary plat, together with all communications from the reviewing agencies, to the Township Board as soon as possible prior to the next regularly scheduled meeting.
- 3. The Township Board shall, at its next regularly scheduled meeting or within 20 days following submission of the required materials shall:
  - a. Consider and review the preliminary plat and approve it if the Proprietor has met all conditions specified for approval of the preliminary plat.
  - b. Instruct the Township Clerk to notify the Proprietor of approval or rejection in writing.
- 4. Final approval of the preliminary plat under this section shall confer upon the Proprietor for a period of two years from the date of approval, the rights granted under Act 288. This period may be extended by the Township Board.

### **Final Plat Application and Review Procedure**

#### **Sec. 27.10 REQUIREMENTS**

- 1. Final plats shall be prepared and submitted as provided in Act 288.
- 2. A written application for approval and all recording and other Township and State fees shall accompany all final plats.
- 3. The Proprietor shall submit proof of ownership of the land included in the final plat in a form satisfactory to the Township.
- 4. The Township may require such other information as it deems necessary to establish whether the proper parties have signed the plat.

#### **Sec. 27.11 PROCEDURE; FINAL PLAT**

- 1. The final plat shall be submitted not less than 20 days prior to the next regular meeting of the Township Board. For any plat submitted thereafter, the applicant shall pay an additional fee established by resolution, for the cost of calling a special meeting to comply with Section 167 of Act 288, unless the Proprietor waives compliance with Section 167.
- 2. The Township Board shall examine the final plat at the next regularly scheduled meeting or within 20 days after submission of the plat, and the Board shall either approve or disapprove the plat.

**Sec. 27.12 IMPROVEMENTS AND FACILITIES**

1. Before final approval of a plat, all required improvements shall be completed, or security shall be given as provided in Section 3.04.
2. Monuments shall be set in accordance with Act 288 and the rules of the State Department of Treasury.
3. Upon completion of all required improvements, one complete copy of as-built engineering plans as well as an electronic copy of such plans for all required public improvements and utilities shall be filed with the Township Clerk coincident with the submission of the final plat.

**Sec. 27.13 SECURITY FOR COMPLETION**

1. In lieu of completion of some or all required improvements, the Township Board may give final plat approval conditioned upon the proprietor providing a financial guaranty for performance as provided in this section.
2. Security shall be in an amount equal to the total estimated cost for completion of the improvement, including reasonable contingencies. Security shall not be required for an improvement for which security has been furnished to another governmental agency.
3. Security shall remain in force for a time to be specified by the Township Board.
4. Security shall be in the form of an irrevocable bank letter of credit issued by a bank, in a form satisfactory to the Township, or in the form of cash escrow or certified check. A performance bond in form satisfactory to the Township, from a surety company authorized to do business in the State of Michigan and acceptable to the Township, may be substituted in lieu of such security only if the applicant can satisfy the Township that an irrevocable letter of credit, cash escrow or certified check cannot reasonably be made available.
5. The proprietor may request periodic reductions in the amount of security as public improvements are completed. Township staff may approve such reductions, to an amount estimated to be equal to the remaining cost of improvements, plus a reasonable contingency.

**Sec. 27.14 CERTIFICATES ON FINAL PLAT**

The final plat shall include proper certificates for the Township Clerk to certify the approval of the plat by the Township Board, and the acceptance on behalf of the public of all dedications shown thereon by the governmental body having jurisdiction over such dedication.

**Improvements and Regulations**

**Sec. 27.15 GENERAL**

The following standards shall apply to all subdivisions within the Township.



### **Sec. 27.16 LOTS**

1. All lots shall face upon, and have direct access to, a public or private street.
2. The side lines of lots shall be approximately at right angles or radial to the street upon which the lots face.
3. All lots shall conform to the requirements of the zoning ordinance for the zone in which the plat is located. This Ordinance shall not be construed as providing for lots smaller than as specified in the Zoning Ordinance. If public water and sewer are available, the provisions of the Township Zoning Ordinance shall override Section 186 of Act 288.
4. Corner lots for residential use shall have the minimum required frontage on both streets adjacent to the lot.
5. The depth to width ratio shall be as required for the zoning district in which the subdivision is proposed. If no depth to width ratio is required then the depth of the lot shall not exceed four times the width. The depth of a lot shall be measured along a horizontal line located midway between the side lot lines and connected to the front and rear lines, or the two front lines of a through lot. The width of the lot shall be measured between the side lot lines parallel to the front lot line at the minimum required front setback line.
6. Corner lots shall have sufficient extra width so as to permit appropriate building setback from both streets and orientation to both streets. Lots abutting pedestrian mid-block crosswalks shall be treated as corner lots.
7. Lots in subdivisions bounded by existing streets shall only have access from internal streets constructed to serve the subdivision and not directly to such existing streets. The Township Board following a recommendation from the Planning Commission may waive this requirement if it is determined that there is no practical way to provide an internal access street due to insufficient lot depth, topography or other natural features of the land to be subdivided or if the proposed subdivision is located on a local street which has a low volume of traffic.
8. Greenbelts or landscaped screen plantings shall be located between a residential subdivision and adjacent major arterial streets, highways or railroad rights-of-way. The proposed subdivision plat shall show the location of said greenbelts. The greenbelt shall contain plantings of sufficient size and number to provide a visual screen for subdivision residents. The greenbelt may contain an earthen berm in conjunction with plantings.

### **Sec. 27.17 USABLE LAND**

All land shall be platted such that it is usable for building lots or required improvements. Land may be platted for common or public areas if adequate provision is made for continued maintenance of such areas, unless such provision for continued maintenance is waived or deemed unnecessary by the Township. For private streets and other areas under the control of a subdivision property owners association or similar organization, the Township may require a recorded agreement whereby the Township may maintain the area and charge the cost thereof as a lien against all properties in the subdivision if the association fails to adequately maintain the areas.

### **Sec. 27.18 DEDICATION**

Streets and other land areas may be dedicated to the public. Any street not dedicated to the public shall comply with the design standards for private roads as required by the Township Zoning Ordinance, and shall include easements for public utilities within the street and at least fifteen feet on either side thereof.

#### **Sec. 27.19 STREET NAMES**

Street names shall be approved by the Township Board with final approval by the Muskegon County Road Commission before printing on the final plat. All streets which are extensions of existing streets must carry the names of such existing streets.

#### **Sec. 27.20 STREET ALIGNMENT AND LAYOUT**

1. The subdivision layout shall conform to the Master Plan of the Township.
2. All proposed public and private streets shall be continuous and in alignment with existing, planned or platted streets insofar as practicable. Where streets in new subdivisions are extensions of existing streets, the platted streets shall be at least as wide as the existing streets that are being extended.
3. If streets are to be dedicated to the public, a sufficient number of streets shall extend to the boundary of the subdivision so as to provide sufficient access to adjoining property and to future development on contiguous land.
4. A public or private road system or interconnected public and private road system shall not serve more than 50 lots or dwellings units, unless a secondary means of ingress and egress is provided for all of the lots or dwellings served. This secondary access shall meet the minimum standards for public and/or private roads, as the case may be, as required by applicable Holton Township Ordinances.
5. Intersections of subdivision streets shall be at least 300 feet from the intersection of a public or Private Street on either side of the road as measured from centerline to centerline.

#### **Sec. 27.21 STREET DESIGN STANDARDS**

Public streets, intersections, and cul-de-sacs in plats shall conform to the design, drainage, grade, layout, right-of-way width and construction requirements of the Muskegon County Road Commission.

#### **Sec. 27.22 SIDEWALKS**

1. Except as otherwise provided in this section, sidewalks at least five feet wide, on both sides of the street, shall be provided for and installed in all plats. A plat shall include right-of-way of sufficient width so as to accommodate such sidewalks.
2. Such sidewalks shall be laid out and constructed when streets and other public improvements are made, unless the Township Board, following a recommendation of the Planning Commission, approves an arrangement for subsequent sidewalk construction, as

lots are improved. With any such approval for subsequent sidewalk construction, conditions and time deadlines may be imposed.

3. The following are exceptions from Section 4.08(1):
  - a. Sidewalks are required on only one side of the street if the other side clearly cannot be developed and if there are no existing or anticipated uses that would generate pedestrian trips on that side.
  - b. In residential subdivisions, sidewalks are required on one side only of a street intended primarily to provide access to abutting properties if the average lot width on the street is greater than or equal to 100 feet.
  - c. In residential subdivisions, no sidewalks are required adjacent to streets intended primarily to provide for access to abutting properties if the average lot width on the street is greater than or equal to 150 feet. Provided, however, that a sidewalk shall be required on one side of the street for such portions of any street located within 1,500 feet of a school site which would be on a walking route to the school.
4. Also in their discretion, the Planning Commission may recommend and the Township Board may approve the waiving, in whole or in part, of the sidewalk requirements of this section. In considering whether to recommend and approve such waiver, the Planning Commission and Township Board shall consider and make findings upon the following factors:
  - a. Whether the installation of sidewalks would be a reasonably appropriate plat improvement, giving consideration to the convenience of pedestrians, the amount of available land and other applicable circumstances.
  - b. The likelihood that pedestrians will make reasonable use of sidewalks in the plat, currently and in the future.
  - c. Whether there are other sidewalks already installed on adjacent or nearby lands.
  - d. The effect of topography, landscaping, location of streets and other improvements and the effect, if any, of other physical aspects of the platted lands.

#### **Sec. 27.23 STREET LIGHTING**

Adequate street lights may be required to be provided and such lighting shall comply with the applicable requirements for lighting as contained in the Township Zoning Ordinance.

#### **Sec. 27.24 PUBLIC UTILITIES**

1. Public electricity and telephone shall be furnished to each lot in the subdivision.
2. All utilities shall be installed and maintained underground and in appropriate easements.
3. Utility easements shall be provided along rear lot lines, and also alongside lot lines when necessary. The total width of such easements shall be not less than ten feet.

4. When a proposed subdivision is to be served by a publicly-owned or privately-owned public water system, fire hydrants and other required water system appurtenances shall be provided by the sub-divider.
5. If there is no existing or available publicly-owned water supply system, the sub-divider may be required to install a privately-owned public water supply system for drinking and fire protection purposes for the common use of the lots within the subdivision in accordance with the requirements of the Safe Drinking Water Act, Act 399 of the Public Acts of Michigan of 1977, as amended, or successor statute of like import, and with the requirements of Township Ordinance.

#### **Sec. 27.25 NATURAL FEATURES**

The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance.

#### **Sec. 27.26 DRAINAGE**

An adequate storm drainage system, including the necessary storm sewers, drain inlets, manholes, culverts, bridges, and other appurtenances, shall be provided in accordance with the requirements of the Township and the County Drain Commissioner. Such facilities shall be designed and constructed so as to have no adverse effect on adjoining lands, or upon lots within the subdivision.

### **Variance**

#### **Sec. 27.27 VARIANCE**

A variance from the provisions of this Ordinance may be granted as follows:

1. If the Proprietor demonstrates that literal enforcement of this Ordinance would result in a practical difficulty, or would impose an unnecessary hardship in the use of the land, Township Board, upon recommendation of the Planning Commission, may permit a variance or variances which are reasonable and within the general policy and purpose of this Ordinance. The Township may attach conditions to the variance.
  - a. For purposes of this section, practical difficulty shall mean a difficulty or impossibility involving the topography or other physical features of the land. Unnecessary hardship shall mean a condition of impracticability or unreasonableness that would result from the application of a provision of this Ordinance.
  - b. In determining whether to grant a variance under the terms of this subsection, the Township Board may depart from the recommendation thereon made by the Planning Commission.
  - c. In considering whether a variance shall be recommended, in the case of the Planning Commission, and in considering whether a variance shall be granted, in

the case of the Township Board, each body shall consider and make findings upon the following:

- 1) That there are special circumstances or conditions affecting the property that would make the strict application of a provision of this Ordinance impracticable or unreasonable.
  - 2) That the granting of the requested variance would not be detrimental to the subdivision development or to adjacent or nearby lands.
  - 3) That the granting of the requested variance, when implemented, would not violate or be contrary to a provision of any other chapter of this ordinance.
  - 4) That the granting of the requested variance would not violate any provision of the Michigan Land Division Act.
2. A petition for a variance shall be submitted together with the submission of the preliminary plat for consideration of a recommendation on tentative approval by the Planning Commission. Notice that a request for a variance has been received shall be included in the notice of public hearing on the preliminary plat provided in Section 2.03, and the variance shall be considered during the process of considering the preliminary plat. If a request for a variance arises because of unforeseen circumstances after preliminary plat review, a request for a variance may be submitted, and a recommendation made by the Planning Commission to the Township Board after public hearing following notice given in accordance with Section 2.03.

### **Enforcement**

#### **Sec. 27.28 APPROVAL**

No plat shall be transmitted to any county or state approving authority for official action until each plat shall have been, in the first instance, approved by the Township Board in accordance with the requirements of this Ordinance.

#### **Sec. 27.29 REGISTER**

No person shall sell or convey any lot in any plat by reference thereto until such plat has been duly recorded in the office of the Muskegon County Register of Deeds.

#### **Sec. 27.30 BUILDING PERMIT**

No building permit shall be issued, and no public sewer or water service shall be provided for any dwelling or other structure located on a lot or plot subdivided or sold in violation of these regulations. The fact that final plat approval has not been received from the State of Michigan shall not prevent a building permit from being granted for not more than three buildings, or for the maximum number of land divisions which would be permitted under Act 288 without plat approval, whichever is less. No building may be occupied or used, however, until all required improvements have been completed, and necessary utilities installed.

#### **Sec. 27.31 NUISANCE**

Any act or failure to act done in violation of the provisions of this Ordinance is hereby declared to be a nuisance per se.

**Sec. 27.32 PENALTY**

1. A violation of this ordinance is a municipal civil infraction, for which the fine shall be not less than \$500 nor more than \$1,000 for the first offense and not less than \$1,000 nor more than \$1,500 for a subsequent offense, in the discretion of the Court, and in addition to all other costs, damages, and expenses provided by law. For purposes of this section, "subsequent offense" means a violation of this ordinance committed with respect to a separate incident by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day such violation continues shall be considered a separate offense.
2. The landowner, tenant, sub-divider, builder, public official or any other person, who commits, participates in, assists in, or maintains such violation may each be found responsible for a municipal civil infraction and be liable for the penalties herein provided. Nothing herein contained shall prevent the Township Board or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this ordinance or of the Land Division Act.
3. In addition to any other available remedy, the Township may in its discretion bring an action in its own name to restrain or prevent any violation of this ordinance or any continuance of such violation. In such case the person found violating this ordinance shall pay the Township's costs and expenses in enforcing this Ordinance, including its attorneys' fees.

**Division of Platted Lots**

**Sec. 27.33 PROHIBITION**

No lot or other parcel of land located within a recorded plat shall be further partitioned or divided, or a building permit issued for a partitioned or divided lot, unless such partition or division is first approved by the Township Board as provided in this article. No partition or division of a lot may result in the creation of a lot that does not satisfy the applicable minimum lot area and dimension requirements of the Township zoning ordinance, this ordinance or Act 288.

**Sec. 27.34 APPROVAL OF PLATTED DIVISION OF LOTS**

1. Any proprietor or lot owner who desires to divide, partition or split a lot, out lot, or other parcel of land located in a recorded plat shall complete an application on a form provided by the Township and shall file the same with the Township Clerk, together with payment of any application fee that may be required. The application shall include a drawing, drawn to scale, showing the proposed division or partition and all adjoining lots, streets and other adjoining parcels. If the applicant proposes to construct a dwelling or other building on the

resulting or remaining lot, or both of them, and if sanitary sewer service and/or water supply are proposed to be provided by an individual septic tank and/or water supply well, the application shall also include a written approval or other statement from the County Health Department indicating approval of the proposed septic tank and drain field system and/or water supply well.

2. Once the application and other materials are complete, the Clerk shall forward the same to the Planning Commission. The Commission shall review the application and other materials at a public meeting and shall make a recommendation thereon to the Township Board.
3. In reviewing the application, the Planning Commission and Township Board shall consider whether the request is consistent with all applicable Township Ordinances, Act 288, and other applicable State laws, and whether the proposed division or partition is consistent with the general public health, safety and welfare.
4. On receiving the recommendation of the Planning Commission, the Township Board shall either approve or deny the application. In approving the application, the Board may include such reasonable terms and conditions as it deems appropriate.

### **Other Matters**

#### **Sec. 27.35 SEVERABILITY**

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

#### **Sec. 27.36 EFFECTIVE DATE**

This Ordinance shall take effect Seven days after its publication in the manner provided by law.

YEAS: Members: Treasurer Bill Halbower, Trustees Anita Kittel & Alan Wilson

NAYS: Members: \_\_\_\_\_

ORDINANCE DECLARED ADOPTED.

Melanie Johnson  
Holton Township Clerk

### **CERTIFICATION OF CLERK**

I hereby certify that the foregoing is a true and complete copy of an ordinance duly adopted by the Holton Township Board at a regular meeting held on February 10, 2009 and ordered published by the Holton Township Board.

Melanie Johnson  
Holton Township Clerk

Introduced: February 10, 2009

Adopted: February 10, 2009

Published: February 20, 2009

Effective: February 27, 2009

## **ARTICLE 28**

### ***WIND ENERGY SYSTEM ORDINANCE***

#### **Sec. 28.01 PURPOSE**

The purpose of this section is to establish standards and procedures by which the installation and operation of a WES shall be regulated within the Township, in order to promote the safe, effective, and efficient use of wind energy.

#### **Sec. 28.02 DEFINITIONS**

1. Wind Energy System (WES) – shall mean any combination of the following:

- a. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
- b. A surface area such as a blade, rotor, or similar device, either variable or fixed,



- for utilizing the wind for electrical or mechanical power;
- c. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device;
- d. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy;
- e. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted;

(Note: For purposes of this section a windmill traditionally used to pump water shall not be considered a Wind Energy System.)

2. On Site Use Wind Energy System – A WES the purpose and use of which is to provide energy to only the property where the WES structure is located, or to adjacent properties under the same ownership or control as the property where the structure is located, or by the mutual consent of adjacent property owners.

3. Single WES for Commercial Purposes – A single WES placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the WES is located. The WES may or may not be owned by the owner of the property upon which the WES is placed.

4. Wind Farm – Clusters of two or more WES placed upon a parcel or parcels with the intent to sell or provide electricity to a site or location other than the premises upon which the WES are located. The WES may or may not be owned by the owner of the property upon which the WES is placed.

5. Utility Grid Wind Energy Systems – A WES designed and constructed to provide electricity to the electric utility grid.

6. Structure Mounted WES – A WES mounted or attached to an existing structure or building.

7. Interconnected WES – A WES which is electrically connected to the local electrical power utility system and can provide power to the local electrical power utility system.

8. WES Height – The distance from the ground at normal grade and the highest point of the WES which is the tip of a rotor blade when the blade is in full vertical position.

9. WES Setback – The distance from the base of the tower or structure upon which the WES is mounted to the nearest lot line. In the case of multiple parcels utilized for multiple or single WES, the setbacks shall be taken from the outside boundary of the parcels utilized for the WES project.

10. Nacelle - In a wind turbine, the nacelle refers to the structure which houses all of the generating components, gearbox, drive train, and other components.

11. Shadow Flicker – Alternating changes in light intensity caused by the moving blade of a WES casting shadows on the ground and stationary objects such as dwellings.

12. Applicant- The person, firm, corporation, company, Limited Liability Corporation or other entity which applies for Township approval under this section, as well as the applicant's successor(s), assign(s), and/or transferee(s) to any approved WES. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own and operate

the WES. The obligations regarding a zoning approval for any approved WES shall be with the land owner and the owner(s) of the WES and jointly and severally with the owner and operator or lessee of the WES if different than the owner.

**Sec. 28.03 WIND ENERGY SYSTEMS ALLOWED AS A PERMITTED USE**

Any On Site Use Wind Energy System including structure mounted WES which is 65 feet or less in total height shall be a permitted use in all zoning districts, subject to the following:

1. The height of the WES with the blade in vertical position shall not exceed 65 feet.
2. A WES shall be set back from all lot lines a distance which is at least equal to 1.25 times the height of the WES as measured from the lot line to the base of the tower and no portion of the WES, including the guy wire anchors, shall be located within or above the required front, side, or rear yard setback.
3. A structure mounted WES shall have a distance from the nearest property line which is at least equal to 1.25 times the height of the WES as measured from the point of attachment to the structure or building to the top of the WES with the blade in the vertical position.

The blade arcs created by a WES mounted on an existing structure shall have a minimum clearance of eight feet or be designed so the blade or other moving parts do not present a safety hazard.

4. Zoning Compliance, Building and Electrical permits shall be required to be obtained from Holton Township to construct and operate any WES, including structure mounted WES, 65 feet or less in total height. A Final permit shall be issued after an inspection of the WES by Holton Township or an authorized agent of the Township, and where the inspection finds that the WES complies with all applicable state construction and electrical codes, local building permit requirements, and all manufacturers' installation instructions.

The WES shall not operate nor remain on the property unless a permit has been issued. A copy of the manufacturer's installation instructions and blueprints shall be provided to the Township.

5. An WES may provide electrical power to more than one dwelling unit, provided the dwelling units are located on property or properties that are adjacent to the property or properties on which the WES is located.

**Sec. 28.04 WIND ENERGY SYSTEMS WHICH REQUIRE A SPECIAL USE PERMIT**

Any WES including a structure mounted WES which is greater than 65 feet in height, may be allowed as a Special Use in all zoning districts except the C-1, R-1, and R-2 Zoning Districts subject to the following regulations and requirements of this Section and also the general special land use review procedures and standards of Section 13.06B [Uses by Special Permit] of this Zoning Ordinance:

1. Site Plan Requirements – For those WES for which a Special Use is required the following items shall be included with or on the site plan:

- a. All requirements for a site plan contained Chapter 19 [Site Plan Review] herein.
- b. Dimensions of the area purchased or leased which is to contain the WES.
- c. Location and height of all existing and proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and any other above-ground structures proposed or existing for the parcel or parcels containing the WES.
- d. Specific distances from the WES structures to all other buildings, structures, and above ground utilities on the parcel or parcels upon which the WES is proposed to be located.
- e. Location of all existing and proposed overhead and underground electrical transmission or distribution lines, located on the lot or parcel(s) upon which the WES or is proposed to be located, as well as within 300 feet of the boundaries of the parcel(s).
- f. Locations and height of all buildings and structures within 300 feet of the exterior boundaries of the lot or parcel where the WES is proposed to be located.
- g. Contour elevations of all WES buildings and structures and the elevations of all existing and proposed structures within 300 feet of the parcel(s) upon which the WES is proposed to be located.
- h. Land uses within 300 feet of the parcel.
- i. Access drives to the WES including dimensions and composition, with a narrative describing proposed maintenance of the drives.
- j. All lighting proposed for the site, including diagrams of lighting fixtures proposed if requested by the Planning Commission.
- k. Security measures proposed to prevent unauthorized trespass and access.
- l. Standard drawings of the structural components of the WES, including structures, towers, bases, and footings. A registered engineer shall certify drawings and any necessary calculations that show that the system complies with all applicable local, state, and federal building, structural and electrical codes.
- m. Additional information as required by Section 13.06 Special Land Uses of this Ordinance, or as may be required by the Planning Commission.
- n. The Planning Commission may waive or modify the above requirements at the request of the applicant if it is determined that those items would not be needed to properly review the project.

2. Height – The height of a WES for which a Special Use is required shall be determined by compliance with the requirements of this Section 27(d)

3. Setbacks - The setback for a WES shall be at least equal to 1.25 times the height of the WES. No part of a WES including guy wire anchors shall be located within or above any required front, side, or rear yard setback. A reasonable set back shall be maintained from overhead electrical transmission lines.

4. Rotor or Blade Clearance - Blade arcs created by a WES shall have a minimum of 30 feet of clearance over and from any structure, adjoining property or tree.
5. Lighting - A WES shall provide lighting as may be required by the FAA.
6. Maintenance Program Required – The applicant shall provide a written description of the maintenance program to be used to maintain the WES, including a maintenance schedule of types of maintenance tasks to be performed.
7. Decommissioning Plan Required - The applicant shall provide a written description of the anticipated life of the system and facility; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and restoration of the site; and removal and restoration procedures and schedules that will be employed if the WES become obsolete or abandoned.
8. Siting Standards and Visual Impact
  - a. A WES shall be designed and placed in such a manner to minimize adverse visual and noise impacts on neighboring areas.
  - b. A WES project with more than one WES structure or tower shall utilize similar design, size, color, operation, and appearance throughout the project as is practicable.
9. Insurance – The WES operator shall maintain a current insurance policy which will cover installation and operation of the WES. The amount of the policy shall be a condition of approval.
10. Performance Guarantee – If a Special Use is approved pursuant to this section, The Planning Commission may require a security in the form of a cash deposit, surety bond, or irrevocable letter of credit in a form, amount, time duration and with a financial institution deemed acceptable to the Township, which will be furnished by the applicant to the Township in order to ensure full compliance with this section and any conditions of approval.

#### **Sec. 28.05 STANDARDS FOR ALL WIND ENERGY SYSTEMS**

All WES shall comply with the following:

1. Sound Pressure Level
  - a. On Site Wind Energy systems shall not exceed 55 dB (A) at the property line closest to the WES. This sound pressure level may be exceeded during short-term events such as severe wind storms. If the ambient sound pressure level exceeds 55 dB (A), the standard shall be ambient dB (A) plus 5 dB (A).
  - b. Utility Grid Systems and Wind Farms shall be subject to the requirements of Section 27(e)(1)(i) above but the sound pressure level shall be measured at the property line closest to the WES at the outside boundary of all property used for the Utility Grid System. In addition, the applicant shall provide modeling and analysis that will demonstrate that the Utility Grid System or Wind Farm will not exceed the maximum permitted sound pressure.

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

3. Construction Codes and Interconnection Standards

- a. All applicable state construction and electrical codes and local building, compliance permit requirements;
- b. Federal Aviation Administration requirements.
- c. The Michigan Airport Zoning Act, Pubic Act 23 of 1950, as amended;
- d. The Michigan Tall Structures Act, Public Act 259 of 1959, as amended;
- e. Private landing strips in or adjacent to Holton Township
- f. The Michigan Public Service Commission and Federal Energy Regulatory Commission if the WES is an interconnected system.

4. Safety

- a. Each WES shall be equipped with both a manual and automatic braking device capable of stopping the WES operation in high winds so that the rotational speed of the rotor blade does not exceed the design limits of the rotor.
- b. To prevent unauthorized access, each WES must comply with at least one of the following provisions, and more than one if required by the Planning Commission:
  - 1) Tower climbing apparatus shall not be located within 12 feet of the ground.
  - 2) A locked anti-climb device shall be installed and maintained.
  - 3) A tower capable of being climbed shall be enclosed by a locked, protective fence at least ten feet high with barbed wire fence.
- c. All WES shall have lightning protection.
- d. If a tower is supported by guy wires, the wires shall be clearly visible to height of at least 10 feet above the guy wire anchors
- e. The minimum height of the lowest position of the rotor or blade shall be at least 30 feet above the ground.

5. Signs

- a. Each WES shall have one sign not to exceed two square feet posted at the base of the tower, or, if the structure is fenced, on the fence. The sign shall include the following

information:

- 1) The words “Warning: High Voltage
- 2) Emergency phone numbers.

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

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

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

8. All distribution lines from the WES shall be located and maintained underground, both on the property where the WES will be located and off-site. The Planning Commission may waive the requirement that distribution lines for the WES which are located off-site (i.e. are not located on or above the property where the WES will be located) be located and maintained underground if the Planning Commission determines that to install, place, or maintain such distribution lines underground would be impractical or unreasonably expensive.

9. A WES, except for structure mounted WES, may be located on a lawful parcel or parcels which do not have frontage on a public or private road.

**Sec. 28.06 REPEAL:**

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of any such conflict.

**Sec. 28.07 SEVERABILITY:**

The various parts, section, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

**Sec. 28.08 EFFECTIVE DATE:**

This Ordinance shall take effect seven days after its publication as provided by the provisions of the Michigan Zoning Enabling Act, MCLA 125.3401, et seq.

INTRODUCTION:

September 22, 2010

PUBLICATION:

October 11, 2010

Melanie Johnson, Clerk Holton Township

ADOPTION:

September 22, 2010

EFFECTIVE DATE:

October 18, 2010

**ARTICLE 30**  
***MET TOWER ORDINANCE***

THE TOWNSHIP OF HOLTON ORDAINS:

**Sec. 30.01 PURPOSE AND INTENT**

Add Article 30, MET Tower, to the Holton Township Zoning Ordinance to read as follows:

A MET Tower may be permitted as a Special Use in all zoning districts except the R-1, R-2, and C-1 Zoning Districts, subject to the regulations and requirements of this section and also the special use review procedures and standards of Section 13.06 of this Zoning Ordinance.

For purposes of this Section a MET Tower is a meteorological tower used for the measurement of wind speed.

**Sec. 30.02 APPLICATION REQUIREMENTS**

An applicant for a MET Tower shall submit an application in accordance with the requirements of Section 13.06 of this Ordinance and shall also submit the following materials;

1. A description of the number and type of MET tower(s) to be installed and the expected length of time that the MET tower will be operable.
2. A description of the height of the MET tower A description of the height of the MET Tower as well as standard drawings of the structural components of the MET Tower including structures, towers, bases, and footings. A registered engineer shall certify the drawings and any necessary calculations that show that the system complies with all applicable local, state, and federal building, structural and electrical codes.
3. An explanation of the purpose of the tower, the type, height and number of wind energy systems anticipated to be proposed for installation on the site or nearby.
4. A statement from the applicant that the MET tower will be installed in compliance with the manufacturer's specifications and a copy of the manufacturer's specifications.
5. A description of the tower maintenance program.
6. A decommissioning plan explaining the process to be undertaken by the applicant for tearing down the tower and removing all tower equipment, materials and structures and restoring the site so it can be used for a use permitted in that Zoning District.
7. Security measures including emergency contact personnel.
8. Ten copies of a site plan drawn at a scale of not more than one inch equals 100 feet however a larger scale may be accepted by the Planning Commission depending upon the size of the parcel. The site plan shall contain at a minimum the following information unless specifically waived by the Planning Commission.
  - a. The date on which the site plan was prepared.
  - b. A north arrow and legal description of the property.
  - c. Property lines and dimensions of the parcel containing the tower, as well as the area leased for the tower if applicable, the height of the MET tower and its distance to all property lines.
  - d. Any buildings or structures existing on the site and the use of the parcel.
  - e. The distance to the closest building on adjacent property.
  - f. The location of any overhead transmission lines on the site or on adjacent property which might be affected by the MET tower.
  - g. Guy wires, guy wire anchors and any other tower supporting structure or device.
  - h. Type and height of fencing to be installed around the tower or an equipment building.
  - i. Elevation drawings of any buildings designed to serve the tower.
  - j. Access road; width and construction standards.
  - k. Any lighting proposed to be located on the tower.

**Sec. 30.03 GENERAL REQUIREMENTS.** A MET tower shall comply with all of the following:



1. The tower shall be setback from all property lines a distance of not less than 1.25 times the height of the tower as measured from the base of the tower
2. All applicable state construction and electrical codes and local building permit requirements
3. Federal Aviation Administration requirements. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA, and the minimum FAA lighting standards shall not be exceeded.
4. The Michigan Airport Zoning Act (Pubic Act 23 of 1950);
5. The Michigan Tall Structures Act (Public Act 259 of 1959);
6. A MET tower which is unused or abandoned shall be removed, along with any associated buildings and structures, by the owner/operator within 90 days of the date of a written notice from the Township. An extension of 90 days may be granted by the Planning Commission upon a request from the owner/operator citing extenuating circumstances beyond their control in removing the tower within the initial 90 day period.
7. In removing the tower the owner/operator shall comply with the decommissioning plan submitted by the applicant and as approved by the Planning Commission.

**Sec. 30.04 PLANNING COMMISSION REVIEW**

1. The Planning Commission shall review the proposed MET tower according to the standards for Special Uses contained in Section 13.06 herein. The Commission may approve a MET tower for a specified period of time subject to renewal by the Planning Commission.
2. The Commission may impose reasonable conditions in its approval of a MET tower in accordance with Section 13.06 herein including but not limited to a requirement that the applicant provide regular reports regarding the maintenance and condition of the tower.
3. In approving a MET Tower the Commission shall require that the applicant provide a performance guarantee in a form and amount acceptable to the Township for the cost of removing the MET tower and restoration of the site

**Sec. 30.05 REPEAL**

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of any such conflict.

**Sec. 30.06 SEVERABILITY**

The various parts, section, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

**Sec. 30.07 EFFECTIVE DATE**

This Ordinance shall take effect seven days after its publication as provided by the provisions of

the Michigan Zoning Enabling Act, MCLA 125.3401, et seq.

INTRODUCTION: September 22, 2010

ADOPTION: September 22, 2010

PUBLICATION: October 11, 2010

EFFECTIVE DATE: October 18, 2010

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Melanie Johnson, Clerk  
Holton Township

## **ARTICLE 31**

### **SIGN REGULATION**

#### **Sec. 31.01 INTENT**

These Standards are adopted to:

- A. Maintain and enhance the aesthetics of the community.
- B. Enhance pedestrian and traffic safety.
- C. Preserve public health, safety, and welfare.
- D. Minimize the adverse effects of signs on nearby public and private property.
- E. Minimize driver distraction.

- F. Encourage appropriate plants and landscaping material.
- G. Avoid excessive signage.
- H. Protect and enhance the scenic views and natural landscapes.
- I. Protect and enhance economic viability by assuring aesthetic appeal for visitors and residents.
- J. Promote the use of aesthetically pleasing sign materials and colors.
- K. Avoid obstacles, distractions, or traffic hazards which impair a traveler's ability to see pedestrians, traffic signs, or vehicles.
- L. Preserve the right to enjoy scenic amenities.
- M. Enhance the effectiveness of necessary directional and warning signs.
- N. Preserve property values.
- O. Provide for the effectiveness of permitted signs.
- P. Avoid adverse lighting or reflection.
- Q. Require structurally safe signs.
- R. Not to supersede MCRC or MDOT R.O.W. regulations.

**Sec. 31.02 PERMIT PROCEDURE**

Prior to construction or establishment of any sign for an existing business, residential parcel or agriculture parcel, except as otherwise specifically noted in this Ordinance, a permit shall be obtained from the Township Zoning Administrator. For a new development project required to have a site plan reviewed by the Planning Commission, signs included in the site plan are reviewed by the Planning Commission. A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of six (6) months after the date of the permit.

**A. ACTIONS EXEMPT FROM PERMITTING.** The following operations shall not be considered as creating a sign and therefore shall not require a sign permit.

1. REPLACING COPY. The changing of the advertising copy of an approved painted or printed sign or on a theater marquee and similar approved signs which are specifically designed for the use of replaceable copy.

2. MAINTENANCE. Painting, repainting, cleaning, light bulb replacement, and other normal maintenance and repair of a sign or a sign structure unless a structural change is made.

**B. APPLICATIONS.** Application for a permit to construct or locate a permanent sign shall be obtained from the Zoning Administrator. The application shall include the following information.

1. Name, address, telephone number of the landowner, developer, or petitioner.
2. A map of the property at a scale of one (1") inch equals twenty-five (25') feet showing the location and type of existing structures on the site, property boundaries, location and type of structures or adjacent properties, road right-of-way, entrances and exits onto the subject property and exact location of the proposed sign(s) with setback from all structures and property lines. The drawings submitted for sign permits must comply with all pertinent aspects of the approved site plan in instances where a site plan is required.
3. An elevation drawing of the proposed sign(s) depicting its design, lettering, method of illumination and other relevant information. The dimensions of the height, length, and width of the sign(s) and height between ground elevation and the bottom of the sign shall be noted.
4. In the case of a wall sign, an elevation of the wall of the building on which the sign is to be placed, including a depiction of the wall sign at scale, shall be shown. The dimension of the building wall and the sign shall be depicted.
5. The proposed dates of construction and completion of the sign.
6. Structural information necessary to comply with all current building codes.
7. In the case of a portable sign, the length of time the proposed sign will be on the site.
8. A fee shall be paid to Holton Township for each sign permit. A schedule of fees shall be established and amended from time to time by the Township Board.

**C. DURATION OF PERMIT FOR PORTABLE SIGNS.** All portable signs are subject to the restrictions outlined in the following Table of Special Purpose Sign Regulations and subject to the location restrictions for permanent signs in the applicable Zoning District. Each such sign shall require a permit if it is to be posted more than three (3) days.

<b>Zoning District</b>	<b>Duration of Permit</b>	<b>Permits per Parcel</b>
RESIDENTIAL(Non-Profit)	14 days	2 per year
AG/RES (All Other)	14 days	1 per year
COMMERCIAL	30 days	2 per year
INDUSTRIAL	30 days	2 per year

**Sec. 31.03 MEASUREMENT OF A SIGN**

Measurement of a sign includes the entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed. This excludes the necessary supports or uprights on which the sign is placed but includes any sign tower. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where two (2) such faces are placed back to back and are at no point more than two (2) feet from one another, the area of the sign shall be taken as the area of one (1) face if the two (2) faces are of equal area, or as the area of the larger face if the two faces are of unequal area. In the case of a sphere, the total area of the sphere shall be divided by four (4) to determine the maximum permitted sign area. The height of a sign shall be measured from the average grade of the lot at the setback line. If a sign includes a numeric address, the portion of the sign containing the address numbers shall not be counted toward the total square footage of the sign.

**Sec. 31.04 TABLE OF SIGNS PERMITTED**

<b>District</b>	<b>Type</b>	<b># per Parcel</b>	<b>Size</b>	<b>Placement</b>	<b>Height</b>
R-1 R-2 R-3 R-4	• Non-dwelling use sign • Small sign • Wall sign • Portable sign	1 1 1 1	24 sq. ft. 6 sq. ft. 2 sq. ft. 32 sq. ft.	In required yard In required yard Any wall In required yard	5 ft. 4 ft. Any wall 5 ft.
Agriculture, A-1	• Small sign • Wall sign • Portable sign • Pole	1 1 1 1	6 sq. ft. 32 sq. ft. 32 sq. ft. 32 sq. ft.	In required yard Any wall In required yard In required yard	4 ft. Any wall 5 ft. 12 ft.
Forestry/Rec, FR	• Small sign • Wall sign • Portable sign • Pole	1 1 1 1	6 sq. ft. 32 sq. ft. 32 sq. ft. 32 sq. ft.	In required yard Any wall In required yard In required yard	4 ft. Any wall 5 ft. 12 ft.
C-1- Commercial C-2- Downtown	• Wall sign • Monument	1 1	64 sq. ft. 32 sq. ft.	Any wall In required yard	Any wall 8 ft.

district	•Marque/Canopy	1	64 sq. ft.	On structure	Ht of highest eve
	• Portable sign	1	32 sq. ft.	In required yard	5 ft.
	• Street Banners	See notes	See notes		8 ft.
	• Electronic message board	1	32 sq. ft.	In required yard	8 ft.
	• Pole	1	32 sq. ft.	In required yard	12 ft.
Industrial, IP	• Wall sign	1	64 sq. ft.	Any wall	Any wall
	• Monument	1	32 sq. ft.	In required yard	8 ft.
	• Pole	1	32 sq. ft.	In required yard	12 ft.
	• Portable sign	1	32 sq. ft.	In required yard	5 ft.
Mobile Home Park Overlay Zone	• Non-dwelling use sign	1	24 sq. ft.	In required yard	5 ft.
	• Small sign	1	6 sq. ft.	In required yard	4 ft.
	• Wall sign	1	12 sq. ft.	Any wall	Any wall
	• Portable sign	1	32 sq. ft.	In required yard	5 ft.
	• Pole	1	32 sq. ft.	In required yard	12 ft.

NOTES TO TABLE-

1. In the case of through lots (a lot or lots held under one ownership fronting on two (2) streets) on a street, one sign may be allowed per access.
2. In the case of a corner lot, situated on two (2) or more streets, signs may be permitted on each street.
3. Only one (1) monument sign shall be permitted on each lot, except that a business center shall be permitted one (1) monument sign for each major street frontage. A business center shall be allowed one (1) sign not exceeding one (1') foot by four (4') feet for each business within the business center. The entire sign shall not exceed eight (8') feet in height. If more than five (5) businesses are located in one (1) center, additional monument signs will be allowed using the same one (1') foot by four (4') foot signs. One (1) wall is allowed per individual business of thirty-two (32) square feet in a business center.
4. No premises other than through or corner lots shall be permitted more than two (2) signs of different types or more than one (1) sign of any particular type.
5. The height of wall signs may be up to the height of the wall or the maximum height.
6. Each business occupancy other than the ground floor shall be entitled to one (1) additional sign of the wall or flat type on the structure or incorporated within a permitted projecting sign. These wall signs shall not be larger than two-thirds (66%) of the permitted wall sign for the first floor business.
7. One (1) sign not exceeding four (4) square feet may be permitted per additional building entrance, exit or service window.
8. Parcels with greater than four hundred (400') lineal feet of frontage may be granted additional signage at the site plan review phase.
9. STREET BANNERS. Fabric signs suspended across streets advertising a public

entertainment or event. A copy of the Holton Township sign permit must be on file with the Zoning Administrator prior to display of the banner. These signs may be displayed during the event being advertised and for no more than 14 days before and 4 days after it. Banners, streamers, pennants, balloons, and any fabric signs are considered temporary signs.

10. POLITICAL CAMPAIGN SIGNS. Signs up to an area of six (6) square feet for each parcel. Signs between six (6) and thirty-two (32) square feet require a permit and are not exempt from these requirements. These signs may be erected no more than thirty (30) days before, and must be removed no more than four (4) days after, the election for which they were made.
11. ELECTRONIC MESSAGE BOARDS. The message/symbol/picture change cycle of a changeable message sign shall be not less than eight (8) seconds per message/symbol/picture.
12. NON DWELLING USE SIGNS. In the R-1, R-2 and R-3 districts, only non-dwelling use signs may be illuminated.

#### **Sec. 31.05 SIGNS EXEMPT FROM PERMIT REQUIREMENTS**

The following exempt Signs are allowed in all zoning districts within the Township. All exempt signs shall comply with setback provisions for the Zoning District in which they are located.

A. CONSTRUCTION SIGNS. These signs may be displayed during the construction period, commencing with the issuance of a building permit. The signs shall have a maximum area of twenty (20) square feet. The signs shall be confined to the site of the construction and shall be removed no more than four (4) days after the beginning of the intended use of the project.

B. SMALL SIGNS. In the R-1, R-2, R-3, R-4 and Agriculture zoning districts, one (1) sign, no greater than six (6) sq. ft. or four (4') ft. in height is permitted without a permit, provided it is located within the required yard.

C. PRIVATE TRAFFIC DIRECTION SIGNS. Signs located on private property, necessary to promote vehicular and pedestrian safety are exempt from permitting. These may include directional signs, parking signs, and other related signs at the discretion of the owner.

D. FLAGS. Two (2) flags are allowed to be exempt from these regulations. If additional flags will be displayed no more than the time period allowed for a portable sign, the flag will be considered a portable sign and is subject to portable sign regulations. If the flag will be displayed more than the time period allowed for portable signs, the flag becomes a permanent sign and must be calculated into the total sign area allowed for a parcel. American flags are exempt from all regulation.

#### **Sec. 31.06 PROHIBITED SIGNS**

Signs are prohibited which:

- A. Are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or emergency vehicle.
- B. Obstruct a motorist's view of any traffic signs, street sign, or traffic signal.
- C. Are not properly anchored or secured to a building or the ground.

**Sec. 31.07 ILLUMINATION**

- A. There shall be no flashing, oscillating, or intermittent illumination of any sign located in the line of vision of a traffic control device or interfering with safe vision along any roadway, especially at intersections.
- B. All illuminated signs shall be designed and located to prevent the light from being cast upon adjoining residences.
- C. The illumination of any sign shall not be detrimental or annoying to surrounding property nor constitute a safety hazard, as determined by the Ordinance Enforcement Officer.
- D. In the R-1 and R-2 districts, only non-dwelling use signs may be illuminated.

**Sec. 31.08 NONCONFORMING SIGNS**

- A. Portable signs are not considered to be acceptable nonconforming structures.
- B. Nonconforming signs: Shall not be changed in such a way to remain nonconforming. Shall not be altered structurally so as to prolong the life of the sign or so as to change the shape, size, type, or design of the sign unless such change renders the sign conforming.
- C. Existing signs prior to the date of sign ordinance adoption are deemed "Grandfathered." Signs that are removed and replaced must meet the requirements of this ordinance pertaining to new sign installation.

**Sec. 31.09 CONSTRUCTION AND MAINTENANCE**

- A. The construction of any sign shall be such that it will withstand all wind and vibration forces which can be normally expected to occur in the vicinity.
- B. All signs shall be properly maintained and shall not be allowed to become unsightly through disrepair or action of the elements.
- C. No sign permit shall be issued until the building and zoning inspectors are satisfied the sign to be constructed complies with the provisions of this Ordinance and will be constructed in a safe, sturdy and durable manner with proper bracing, anchorage and foundation.
- D. A sign shall not be erected or installed until a permit is first obtained from the Zoning Administrator.

**Sec. 31.10 VIOLATIONS AND REMOVAL**



A. Any sign erected, altered, or converted subsequent to the passage of this Article and in violation of any of the provisions thereof is hereby declared to be a nuisance per se. A sign declared to be a nuisance per se shall be subject to municipal civil infractions and/or repeal of permit if the sign is not brought into compliance with this Chapter or removed.

B. Upon discovery of a violation of this Chapter, the Zoning Administrator shall provide written notice to the person in possession of the premises upon which the sign is erected as is reasonably available and to the owner of the premises upon which the sign is erected as shown by the records of the Township/Village Assessor. Such notice shall state the defects found upon inspection of the sign and order the sign to be brought into compliance with this Chapter or removed.

C. The Zoning Administrator or his representative shall also post a copy of such notice upon the violating sign or upon the premises upon which the sign is erected. Such notice shall be sufficiently weatherproof to withstand normal exposure to the elements and shall be readily visible from the nearest public thoroughfare.

D. If the violating sign has not been removed or brought into compliance with this Article within thirty (30) days from the issuance of the order specified in B. above, the Zoning Administrator or Ordinance Enforcer or his deputies shall provide notice to the person in possession of the premises upon which the violating sign is erected and to the owner of premises upon which the sign is erected. The owner may request an interpretation of the Ordinance or an administrative decision at the Zoning Board of Appeals. Notice shall be provided in the same manner as in B. and C. above.

E. If the Zoning Board of Appeals determines that the sign involved is in violation of this Chapter, the Zoning Administrator shall order the action necessary to bring the sign into compliance. Based upon competent evidence and testimony, the Board of Appeals shall also establish a reasonable time by which the requirements of the order shall commence and shall be completed.

F. If the decision and order provided for in E. above are not complied with in the specified time, the Zoning Administrator or Ordinance Enforcer or his deputies may cause the violating sign to be removed and destroyed. The cost of removal, destruction, and disposal of the sign may be charged against the premises.

G. Nothing in this Section shall prevent the Zoning Administrator or Ordinance Enforcer or Building Inspector from ordering the complete removal of any sign presenting an immediate threat to the safety of the public.

### **Sec. 31.11 ABANDONED SIGNS**

A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business is no longer conducted on the premises. If the owner or lessee fails to remove it within thirty (30) days of the termination of business, the Zoning Administrator or a duly authorized representative, may remove the sign at cost to the property owner. When a successor to a defunct business agrees to maintain the signs as provided in this code, this removal requirement shall not apply.

Adoption: September 10, 2019  
Publication: October 3, 2019  
Effective Date: October 10, 2019

Sarah Hippler  
Holton Township Clerk

## **POLICE ORDINANCES**

### ***12.000 CONSUMERS ENERGY COMPANY ELECTRIC FRANCHISE ORDINANCE***

AN ORDINANCE, granting to CONSUMERS ENERGY COMPANY, its successors and assigns, the right, power and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, cross arms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the TOWNSHIP OF HOLTON, MUSKEGON COUNTY, MICHIGAN, for a period of thirty years.

THE TOWNSHIP OF HOLTON ORDAINS:

#### **12.001 GRANT, TERM.**

The TOWNSHIP OF HOLTON, MUSKEGON COUNTY, MICHIGAN, hereby grants the right, power and authority to the Consumers Energy Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee," to construct, maintain and commercially use electric lines consisting of towers, masts, poles, cross arms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances for the purpose of transmitting, transforming and distributing electricity on, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the TOWNSHIP OF HOLTON, MUSKEGON COUNTY, MICHIGAN, for a period of thirty years.

#### **12.002 CONSIDERATION.**

In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

#### **12.003 CONDITIONS.**

No highway, street, alley, bridge, waterway or other public place used by said Grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to the same order and condition as when said work was commenced. All of Grantee's structures and equipment shall be so placed on either side of the highways as not to unnecessarily interfere with the use thereof for highway purposes. All of Grantee's wires carrying electricity shall be securely fastened so as not to endanger or injure persons or property in said highways. The Grantee shall have the right to trim trees if necessary in the conducting of such business, subject, however, to the supervision of the highway authorities.

#### **12.004 HOLD HARMLESS.**

Said Grantee shall at all times keep and save the Township free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the structures and equipment hereby authorized. In case any action is commenced against the Township on account of the permission herein given, said Grantee shall, upon notice, defend the Township and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance.

#### **12.005 EXTENSIONS.**

Said Grantee shall construct and extend its electric distribution system within said Township, and shall furnish electric service to applicants residing therein in accordance with applicable laws, rules and

regulations.

**12.006 FRANCHISE NOT EXCLUSIVE.**

The rights, power and authority herein granted, are not exclusive.

**12.007 RATES.**

Said Grantee shall be entitled to charge the inhabitants of said Township for electricity furnished therein, the rates as approved by the Michigan Public Service Commission, to which Commission or its successors authority and jurisdiction to fix and regulate electric rates and rules regulating such service in said Township, are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said Township, acting by its Township Board, or by said Grantee.

**12.008 REVOCATION.**

The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.

**12.009 MICHIGAN PUBLIC SERVICE COMMISSION, JURISDICTION.**

Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to electric service in said Township.

**12.010 REPEALER.**

This ordinance, when accepted and published as herein provided, shall repeal and supersede the provisions of an electric ordinance adopted by the Township on June 10, 1986 entitled:

AN ORDINANCE, granting to CONSUMERS POWER COMPANY, its successors and assigns, the right, power and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, cross arms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, under, along and across the highways, streets, alleys, bridges and other public places, and to do a local electric business in the TOWNSHIP OF HOLTON, MUSKEGON COUNTY, MICHIGAN.

and amendments, if any, to such ordinance whereby an electric franchise was granted to Consumers Energy Company.

**12.011 EFFECTIVE DATE.**

This ordinance shall take effect upon the day after the date of publication thereof; provided, however, it shall cease and be of no effect after thirty days from its adoption unless within said period the Grantee shall accept the same in writing filed with the Township Clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said Township and said Grantee.

Adopted by Township Board and Accepted by Grantee: May 10, 2016.

***20.000 DISORDERLY CONDUCT ORDINANCE***

(ord. no. 2 eff. Jan 18, 1986)

## ORDINANCE PROHIBITING DISORDERLY CONDUCT.

For the purpose of maintaining peace and order in the Township of Holton, and for the prevention and control of disorderly and improper conduct in the said Township, so as to aid in the furthering of health and welfare of the residents of said Township, THE TOWNSHIP OF HOLTON DOES HEREBY ORDAIN:

### **20.001 DEFINITIONS**

Whenever the term "public place" is used in this Ordinance, it shall mean any street, alley, park, public building, any other place which is open to the public *view*, or to which the public has access, regardless of ownership thereof. Violations of this ordinance are not limited to public places unless so stated.

(ord. no. 2 eff. Jan. 18, 1986)

### **20.002 ACTS PROHIBITED**

No person shall:

- 2.1 Commit an assault, or an assault and battery on any person.
- 2.2 Be under the influence of any narcotic drug in any public place.
- 2.3 Be intoxicated in a public place and either endanger directly the safety of another person or of property or act in a manner that causes a public disturbance.
- 2.4 Engage in any indecent, insulting, immoral, or obscene conduct in any public place.
- 2.5 Discharge any firearm, air rifle, air pistol or bow and arrow in the Township, except in accordance with the hunting and conservation laws of the State of Michigan, as otherwise allowed by law, or at a duly established range.
- 2.6 Fire, discharge, display, or possess any fireworks except of the type and under the conditions permitted by the laws of the state of Michigan.
- 2.7 Engage in peeping in the windows of an inhabited place.
- 2.8 Beg in any public place.
- 2.9 Bathe in any body of water in a naked state, or with his or her person so much undressed that there shall be an indecent exposure of the body.
- 2.10 Use any indecent, immoral, or insulting language to, or in the presence or hearing of, any other person, or manifest any indecent or insulting behavior in said Township in the presence, view or hearing of any other person.
- 2.11 Engage in fortune telling or attempt to tell fortunes for hire, gain or reward.
- 2.12 Make any immoral exhibition or indecent exposure of his or her person.

- 2.13 Willfully destroy, remove, damage, alter or in any manner deface any property, real or personal, whether publicly or privately owned, or mark or post hand bills, on or in any manner mar the walls of, any public building or fence, tree, or pole within the Township, or destroy, take, or meddle with any property belonging to the Township, or remove the same from the building or place where it may be kept, placed or stored, without proper authority.
- 2.14 Engage in any disturbance, fight, or quarrel in a public place.
- 2.15 Jostle or roughly crowd persons in any public place.
- 2.16 Loiter on any street or sidewalk or in any park or public building or conduct in any public place so as to obstruct the free, lawful and uninterrupted passage of other persons or vehicles.
- 2.17 Play any ball game in any public street or sidewalk or otherwise obstruct traffic on any street or sidewalk by collecting in groups thereon, for any purpose.
- 2.18 Engage in any act of prostitution.
- 2.19 Attend, frequent, operate or be an occupant or inmate of any place where prostitution, gambling, the illegal sale of intoxicating liquor, or where any other illegal or immoral business or operation or violations of this or any other law is permitted or conducted.
- 2.20 Engage in prostitution, gambling, the illegal sale of intoxicating liquor, or any other illegal or immoral business or occupation. Proof of recent reputation for engaging in prostitution, gambling, illegal sale of intoxicating liquor, or other illegal or immoral occupation or business shall be prima facie evidence of being engaged or occupied therein.
- 2.21 Solicit or accost any person for the purpose of inducing the commission of any illegal or immoral act.
- 2.22 Knowingly transport any person to a place where prostitution or gambling is practiced, encouraged, or allowed for the purpose of enabling such person to engage in gambling or in any illegal or immoral act.
- 2.23 Keep or maintain a gaming room, gaming table, or any gaming device, used for gaming; or knowingly suffer a gaming room, gaming table, or any gaming device to be kept, maintained, played or sold on any premises occupied or controlled by him.
- 2.24 Disturb the public peace and quiet by loud, boisterous, or vulgar conduct.
- 2.25 Permit or suffer any place occupied or controlled by him to be a resort of noisy, boisterous, or disorderly persons.
- 2.26 Obstruct, resist, hinder, or oppose any member of any Police Department, any sheriff or deputy sheriff constable, or any peace officer in the discharge of his or her duties as such. No person shall fail to obey the lawful and reasonable directions of a peace officer, police officer, sheriff or deputy sheriff in a public place.

- 2.27 Prowl about any alley or the private premises of any other person in the nighttime, without authority or permission of the owner of such premises.
- 2.28 Spit on any sidewalk or on the floor or seat of any public carrier, or on any floor, wall, seat or equipment of any place of public assemblage.
- 2.29 Disturb any school, meeting, or congregation lawfully assembled, whether religious, political or otherwise.
- 2.30 Wrongfully throw or propel any snowball, missile or object from any moving motor vehicle.
- 2.31 Wrongfully throw or propel any snowball, missile or object toward any person or motor vehicle.
- 2.32 Neglect or fail to support a spouse, children or family, if the person shall have sufficient ability to do so, or leave a spouse, children or family without sufficient means of support.
- 2.33 Summon, as a joke or prank or otherwise without a good reason therefore, by telephone or otherwise, the Police or Fire Department or any public or private ambulance to go to any address where the service called is not needed.  
(ord. no. 2 eff. Jan, 18, 1986)

**20.003 PENALTY**

Any person who shall violate this ordinance shall be guilty of a misdemeanor punishable by a penalty not to exceed ninety (90) days in the County Jail or a \$500.00 fine, or both.  
(ord. no. 2 eff. Jan. 18, 1986)

**20.004 EFFECTIVE DATE**

This ordinance shall be effective 30 days after publication.  
(ord. no. 2 eff. Jan. 18, 1986)

Adopted: November 13, 1985  
Published: December 19, 1985

## ***20.050 NOISE ORDINANCE***

ord. no. 3 eff. Jan, 18, 1986

THE TOWNSHIP OF HOLTON HEREBY ORDAINS:

### **20.051 ACTS PROHIBITED**

It shall be unlawful for any person to make, continue or cause to be made or continued any loud or unusual noise or any noise which either disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the Township. The acts enumerated in Section 2 [20.0521] of this ordinance are hereby declared to be loud and disturbing noises, but such enumeration shall not be deemed to be exclusive.

(ord. no. 3 eff. Jan. 18, 1986)

### **20.052 SPECIFIC ACTIVITIES DEEMED VIOLATIONS**

- 2.1 Playing, using, operating or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, tape recorder, tape playing machine, or other machine or device for producing or reproducing sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle or chamber in which such machine or device is operated and those who are voluntary listeners thereto is prohibited.
- 2.2 The operation of any such set, instrument, phonograph, tape recorder, tape playing machine, or other machine or device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the place, building, structure or vehicle in or on which it is located shall be prima facie evidence of a violation of this section.
- 2.3 Yelling, shouting, hooting, whistling or singing in a public place, so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence, or of any person in the vicinity, is prohibited.
- 2.4 The operation of any motor vehicle, boat, racer, automobile or vehicle of any kind or nature in any area where the noise emanating there from would be unreasonably disturbing and annoying to other persons in the vicinity.

(ord. no, 3 eff. Nov 1, 1999)

### **20.053 PERSONS RESPONSIBLE**

Any person who maintains or is in possession or control of any premises where any violation of this act is permitted, and who is present, whether in the capacity of owner, lessee, manager, or other person in control, and fails to take reasonable steps to prevent such occurrences, is guilty of a violation of this ordinance.

(ord. no. 3 eff. Jan. 18, 1986)

### **20.054 PENALTIES**



A person who violates this ordinance or section thereof is guilty of a misdemeanor and shall be punished by a fine of \$500.00 or imprisonment for ninety (90) days or both.  
(ord. no. 3 eff. Jan. 18, 1986)

**20.055 EFFECTIVE DATE**

This ordinance shall be effective 30 clays after publication.  
(ord. no. 3 eff. Jan. 18, 1986)

Adopted: November 13, 1985  
Published: December 19, 1985

Changes on 2.4 shall be effective November 1, 1999

Adopted: October 12, 1999  
Published:

## ***20.100 LIQUOR LICENSE ORDINANCE***

Ord. no eff. Dec. 1985

An Ordinance to establish procedures and standards for review of applications, renewals, and revocation of license to sell beer and wine or spirits.

THE TOWNSHIP OF HOLTON, MUSKEGON COUNTY, MICHIGAN ORDAINS:

### **20.101 APPLICATION FOR NEW LICENSE**

1. **APPLICATION.** Applications for license to sell beer and wine or spirits shall be made to the township board in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership or corporation, verified by oath or affidavit, and shall contain the following statements and information:
  - a. The name, age, and address of the applicant in the case of an individual; or, in the case of a co-partnership, the persons entitled to share in the profits thereof, in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and, if a majority interest in the stock of such corporation is owned by one person or his nominee, the name and address of such person.
  - b. The citizenship of the applicant, his place of birth, and, if a naturalized citizen, the time and place of his naturalization.
  - c. The character of business of the applicant, and in the case of a corporation, the object for which the business was formed.
  - d. The length of time said applicant has been in business of that character, or, in the case of a corporation, the date when its charter was issued.
  - e. The location and description of the premises or place of business which is to be operated under such license.
  - f. A statement whether applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application.
  - g. A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this ordinance or the laws of the State of Michigan
  - h. A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any ordinances of the township in the conduct of its business.
  - i. The application shall be accompanied by building and plat plans showing the entire structure and premises and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off street parking, lighting, and refuse disposal facilities and where appropriate, adequate plans for screening and noise control.

2. **RESTRICTION ON LICENSES.** No such license shall be issued to:
- a. A person whose license, under this ordinance has been revoked for cause.
  - b. A person who, at the time of application or renewal of any license issued hereunder would not be eligible for such license upon a first application.
  - c. A co-partnership, unless all of the members of such co-partnership shall qualify to obtain a license, under state law.
  - d. A corporation, if any officer, manager or director thereof, or a stock owner or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation would not be eligible to receive a license hereunder for any reason.
  - e. A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee.
  - f. A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor.
  - g. A person who does not own the premises for which a license is sought or does not have a lease therefore for the full period for which the license is issued.
  - h. Any law enforcing public official or any member of the township board, and no such official shall be interested in any way either
  - i. Directly or indirectly in the manufacture, sale or distribution of alcoholic liquor.
  - j. For premises where there exists a violation of the applicable Building, Electrical, Mechanical, Plumbing or Fire Codes, applicable Zoning Regulations, or applicable Public Health Regulations.
  - k. For premises where it is determined by a majority of the board that the premises do not or will not reasonably soon after commencement of operations have adequate off-street parking, lighting, refuse disposal facilities, screening, noise, or nuisance control.
  - l. Where the board determines, by majority vote, that the proposed location is inappropriate considering: the desirability of establishing a location in developed, commercial areas, in preference to isolated, undeveloped areas; the effects upon adjacent and nearby residents and property owners; traffic safety; accessibility to the site from abutting roads; capability of abutting roads to accommodate the commercial activity; distance from public or private schools for minors; proximity of inconsistent zoning districts, and accessibility from primary roads or state highways.

3. **TERM OF LICENSE.** Approval of a license shall be for a period of one year subject to annual renewal by the township board upon continued compliance with the regulations of this ordinance and state law. Approval of a license shall be with the understanding that any necessary remodeling or new construction for the use of the license shall be commenced within six months of the action of the township board or the Michigan Liquor Control Commission approving such license whichever last occurs. Any unusual delay in the completion of such remodeling or construction may subject license to revocation.
4. **LICENSE HEARING.** The Township Board shall grant a public hearing upon the license application. Following such hearing the Board shall submit to the applicant a written statement of its findings and determination, The Board's determination shall be based upon satisfactory compliance with the restrictions set forth in paragraph 1.B. (1) through (11) above.  
(ord. no. 7 eff. Dec. 19, 1985)

#### **20.102 OBJECTIONS TO RENEWAL AND REQUEST FOR REVOCATION**

1. **PROCEDURE.** Before filing an objection to renewal or request for revocation of a license with the Michigan Liquor Control Commission, the Township Board shall hold a hearing and serve the license-holder, by first class mail, mailed not less than ten days prior to hearing, a notice thereof. The notice shall contain the following:
  - a. Notice of the hearing,
  - b. Statement of facts or allegations to be considered.
  - c. Date, time and place of hearing.
  - d. A statement that the licensee may present evidence and testimony and confront witnesses.

Following the hearing, the township board shall submit to the license holder and the Commission a written statement of its findings and determination.

2. **CRITERIA FOR NONRENEWAL OR REVOCATION.** The township board shall recommend non-renewal or revocation of a license upon a determination by it that based upon a preponderance of the evidence presented at hearing either of the following exist:
  - a. Violation of any of the standards set forth in paragraph 1.13 (1) through (11) above; or,
  - b. Maintenance of a nuisance upon the premises.  
(ord. no. 7 eff. Dec. 19, 1985)

#### **20.103 SEVERABILITY**

Should any section of this ordinance be declared unconstitutional or invalid, such declaration shall not affect the validity of the remaining sections of this ordinance.  
(ord. no 7 eff. Dec. 19, 1985)

#### **20.104 EFFECTIVE DATE.**

This ordinance shall take effect on the date of publication. All ordinance or parts of ordinances in conflict herewith are hereby repealed.

(ord. no. 7 eff. Dec. 19, 1985)

Adopted: November 13, 1985

Published: December 19, 1985

***22.000 CONSTRUCTION CODE ORDINANCE***

(ord. no. 8 eff. Jan. 18, 1986)

Ordinance for Enforcement of Michigan State Construction Code.

THE TOWNSHIP OF HOLTON, MUSKEGON COUNTY, MICHIGAN, HEREBY  
ORDAINS:

**22.001 ENFORCEMENT OF CODE**

- 1.1 The Township hereby elects to enforce the Michigan State Construction Code as promulgated and authorized under the State Construction Code Act of 1972, being Act. No 230 of the Public Acts of 1972, as amended.  
(ord. no. 8 eff. Jan. 18, 1986)

**22.002 ENFORCEMENT AGENCY**

- 2.1 The building inspector of the Township is hereby designated as the enforcing agency for Holton Township. (ord. no. 8 eff. Jan. 18, 1986)

**22.003 CONSTRUCTION BOARD OF APPEALS**

- 3.1 There is hereby authorized to be appointed by the Township Board, separate resolution, a construction board of appeals, to serve as prescribed in Section 14 of Act No. 230 of the Public Acts of 1972, being MCI 125.1514. The construction board of appeals for the Township shall have three (3) members. Members shall be appointed by the Township Board, using the standards set forth in the said Act.  
(ord. no. 8 eff. Jan. 18, 1986)

**22.004 FEES**

- 4.1 The fees set forth in the various codes comprising the Michigan State Construction Code are hereby deleted, and the Township shall set fees for permits and appeals by separate resolution. Fees shall be set in accordance with the standards set forth in the said State Construction Code Act of 1972.  
(ord. no. 8 eff. Jan. 18, 1986)

**22.005 PENALTIES**

- 5.1 Any person or persons, corporations, partnerships or other entities found in violation of any of the construction code adopted by this ordinance, or any code there under, shall be guilty of a misdemeanor, punishable by a fine of not more than \$500.00 or imprisonment in the County Jail for a term of not more than 90 days, or both such fine and imprisonment. (ord. no. 8 eff. Jan. 18, 1986)

**22.006 EFFECTIVE DATE**

- 6.1 This ordinance shall take effect 30 days after publication.  
(ord. no. 8 eff. Jan. 18, 1986)

Adopted: November 13, 1985  
Published: December 19, 1985

**35.000 GARBAGE, RUBBISH AND JUNK  
ORDINANCE**

(ord. no. 5 eff. Jan. 18, 1986)

THE TOWNSHIP BOARD FOR THE TOWNSHIP OF HOLTON, COUNTY OF MUSKEGON,  
MICHIGAN, ORDAINS:

**35.001 TITLE**

This Ordinance shall be known as the Holton Township Garbage, Rubbish and Junk Ordinance.  
(ord. no. 5 eff. Jan. 18, 1986)

**35.002 PURPOSE**

The fundamental purpose of this Ordinance is to promote the public safety, health and general welfare of the inhabitants of Holton Township.  
(ord. no. 5 eff. Jan. 18, 1986)

**35.003 DEFINITIONS**

- 3.1 **GARBAGE.** The term garbage means any accumulation of trash, refuse or litter specifically including but not limited to containers once containing edible, drinkable or consumable materials as well as dead animals or parts thereof, and discarded edible or drinkable items, animal, fruit and vegetable wastes, discarded food of any type and all putrescible waste.
- 3.2 **RUBBISH.** The term rubbish shall include waste paper, metal and glass containers of any type, metal or glass cuttings or pieces, boxes, bottles, cartons, rags, discarded clothing, discarded utensils, sweepings, crockery, nails, wire, light bulbs, signs, advertising matter, shavings, lumber, lawn or garden cuttings, and all other materials normally discarded from any household or small business.
- 3.3 **JUNK.** The term "junk" shall include any items of discard not normally associated with residential or small business usage, and in addition, unused or unusable building materials, furniture, machinery, appliances or parts thereof, motor vehicles or their parts, including but not limited to motor vehicles which are inoperable, and discarded tools.  
(ord. no. 5 of Jan. 18, 1986)

**35.004 GARBAGE AND RUBBISH; STORAGE**

No person, firm or corporation shall store garbage or rubbish on any premises in Holton Township unless such materials will be completely contained within watertight metal or plastic containers with tight-fitting metal or plastic covers.

- 4.1 The owner or occupant of every building, including residential buildings, shall provide for said building and keep clean and in place containers with proper watertight fitting cover, in sufficient number and of a capacity of ten (10) gallons or more for storing garbage, refuse, ashes, rubbish, and other waste matters.
- 4.2 Containers used for the storage of garbage or rubbish shall be maintained in a clean and sanitary condition, and shall be tightly covered except as such times as material is being placed within or removed from containers. (ord. no. 5 eff. Jan. 18, 1986)

### **35.005 JUNK; STORAGE**

Storage or dumping of junk as herein defined is prohibited on any premises located in the Township, unless said premise is licensed as a business by any and all applicable authorities for the salvaging, dismantling and resale of junk.

(ord. no. 5 eff. Jan. 18, 1986)

### **35.006 DISPOSAL**

No person, firm or corporation shall deposit or dump any garbage, rubbish or junk at any place within the Township unless the place of deposit is licensed according to law, including Act No. 641 of the Public Acts of 1980, or any amendments thereto.

(ord. no. 5 eff. Jan. 18, 1986)

### **35.007 ENFORCEMENT; PENALTY; EFFECTIVE DATE**

- 7.1 The provisions of this Ordinance shall be enforced by the Building Inspector, Township Supervisor, or other person authorized by the Township Board.
- 7.2 Any person violating the provisions of this Ordinance shall be guilty of a misdemeanor, punishable by the maximum fine of \$500.00 or a maximum term of ninety (90) days in jail in the County Jail, both such fine and jail term.
- 7.3 This Ordinance shall become effective thirty (30) days after publication.  
(ord. no. 5 eff. Jan. 18, 1986)

Adopted: November 13, 1985

Published: December 19, 1985



## **35.050 DISMANTLED CAR ORDINANCE**

(ord. no. 6 eff. Jan. 18, 1986)

An Ordinance to secure the public peace, health, safety and welfare of the residents and property owners of the Township of Holton, Muskegon County, Michigan, a municipal corporation, by the regulation of the outdoor parking and storage of motor vehicles, tractor trailers, house trailers, and new or used parts of junk there from within the Township of Holton; to provide penalties for the violation of this Ordinance, and to repeal any Ordinances or parts of Ordinances in conflict herewith,

THE TOWNSHIP OF HOLTON, MUSKEGON COUNTY, MICHIGAN ORDAINS:

### **35.051 NAME**

This Ordinance shall be known and cited as the Holton Township Dismantled Car Ordinance.  
(ord. no, 6 eff. Jan. 18, 1986)

### **35.052 PURPOSE**

The purpose of this Ordinance is to limit and restrict the outdoor storage, parking or unreasonable accumulation of junk, unused, partially dismantled or non-operating motor vehicles, house trailers, or tractor trailers, or new or used parts thereof upon premises within the Township unless such premises have been granted a license, permit or variance to store or accumulate such material; to thereby avoid injury and hazards to children and others attracted to such vehicles or trailers; to avoid the devaluation of property values and the creation of blight the presence of such vehicles or trailers create upon adjoining property owners. (ord. no. 6 eff. Jan. 18, 1986)

### **35.053 REGULATIONS**

1. No person, firm, or corporation shall park, store, or place upon any public right-of-way or public property, or upon any premises within the Township, any motor vehicle, house trailer, or tractor trailer or new or used parts of junk there from, unless the same is wholly contained within a fully enclosed building and does not violate any zoning or building laws of the Township, County, or State of Michigan, except for the following:
  - a. Duly licensed and operable vehicles or trailers with substantially all main component parts attached.
  - b. Vehicles or trailers that is temporarily inoperable, because of minor mechanical failure, but which are not, in any manner, dismantled and have substantially all main components parts attached, which may remain upon such private property.
  - c. Not more than one (1) vehicle in fully operating condition such as a stock car or modified car that has been redesigned or reconstructed for a purpose other than that for which it was manufactured, provided no building or garage is located upon the premises in which the same could be parked or stored. In no event shall any such vehicle be parked in front or side yard areas of any such residential premises.
  - d. Premises must have a proper license, permit or variance to so store or accumulate such material.
  - e. One (1) vehicle unlicensed and in operable condition may be stored on each premise, but in no event shall such vehicle be parked in front or side yard areas.

2. No repairing, re-designing, modifying or dismantling work or operations shall be allowed upon any vehicle or trailer or parts thereof upon any public right of way or public property, or more than one vehicle on any property for a period in excess of 48 hours except such as shall be accomplished within fully enclosed buildings, will not constitute a nuisance or annoyance to adjoining property owners or occupants, and does not violate any provisions of any Holton Township Ordinance. Any such work within such 48-hour period heretofore allowed shall not, however, consist of any major repair, re-designing, modifying or dismantling work, but only such occasional minor work as may infrequently be required to maintain a vehicle or trailer or parts thereof in normal operating condition.  
(ord. no. 6 eff. Jan. 18, 1986)

#### **35.054 NUISANCE**

Any parking, storage, placement, or operation in violation of the provisions of this Ordinance are hereby declared to be a public nuisance which may be enjoined or which may subject the violator to civil damages and the fines and penalties herein provided for.

(ord. no. 6 eff. Jan. 18, 1986)

#### **35.055 CONSTRUCTION**

This Ordinance shall not prevent the operation of any licensed junk yard, salvage yard, garage, body, or paint shop legally operating within a proper zone as defined in the Holton Township Zoning Ordinance, and shall be in addition to any other laws or Ordinances respecting rubbish, refuse, litter, trash, or junk control and regulations.

(ord. no. 6 eff. Jan. 18, 1986)

#### **35.056 SAVING CLAUSE**

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, the remaining parts shall continue in full force and effect.

(ord. no. 6 eff. Jan. 18, 1986)

#### **35.057 PENALTY**

Any person, firm, or corporation who violates any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail for not to exceed 90 days, or both such fine and imprisonment. Each day that a violation continues to exist shall constitute a separate offense.

(ord. no. 6 eff. Jan. 18, 1986)

#### **35.058 EFFECTIVE DATE**

This Ordinance shall take effect 30 days after the date of publication. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

(ord. no. 6 eff. Jan. 18, 1986)

Adopted: November 13, 1985  
Published: December 19, 1985

**36.000 REMOVAL OF ABANDONED SCRAP AUTOMOBILE ORDINANCE  
HOLTON TOWNSHIP**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR HOLTON TOWNSHIP TO PROVIDE FOR THE REMOVAL OF ABANDONED SCRAP AUTOMOBILES.

THE TOWNSHIP OF HOLTON, MUSKEGON COUNTY, MICHIGAN ORDAINS:

That the Code of Ordinances for Holton Township shall be amended by adding the following new provisions:

**REMOVAL OF JUNK VEHICLE PROCEDURES**

1. Except as otherwise permitted by a duly adopted Holton Township Ordinance, no person or individual may store upon property located in the Township abandoned, scrap automobiles.
2. As used in this section, "abandoned scrap automobile" means a vehicle located outside of a structure which is either unlicensed, or licensed but inoperable, partially or fully dismantled and which has remained on public property or private property for a period of 21 days after the Township has affixed a written notice to the vehicle.
  - d. The notice shall be given to the registered owner of the automobile who is presumed to be the owner.
  - e. The notice shall also be mailed to the owner of the property where the abandoned scrap automobile is located.
  - f. Before sending the notices required by this section, the township shall confirm that the abandoned scrap vehicle is not listed as stolen property.
  - g. The township may, by resolution, adopt enforcement guidelines for compliance with the provisions of this Ordinance.
3. If the vehicle is not removed within 21 days after the date the notice was affixed, the vehicle is deemed abandoned and the township may have the vehicle removed from the property.
4. The township shall contract for the removal of abandoned scrap vehicles. The contract shall require that the contractor selected to remove the vehicles agrees to follow these ordinance requirements and the requirements imposed by state law.
5. The registered owner may contest the fact that the vehicle has been deemed an abandoned scrap automobile or the reasonableness of the towing fees and daily storage fees by requesting a hearing before the Township Board. A request for a hearing shall be made by filing a request with the Board within 14 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved by the Board after a hearing.
6. The violation of this Ordinance is deemed a civil infraction.

7. Severability. The provisions of this Ordinance are declared to be severable, and the holding of any court of competent jurisdiction that any section hereof is invalid shall not impair or invalidate any other section.
8. Repeal of conflicting Ordinances. All Ordinances in conflict with this Ordinance to the extent of such conflict are hereby repealed.
9. Effective Date. This Ordinance shall be effective thirty (30) days after publication.

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Melanie Johnson, Township Clerk

Introduced: June 14, 2005

Adopted: June 14, 2005

Published: August 15, 2005

Effective: September 14, 2015

## ***37.000 HOLTON TOWNSHIP OPEN BURNING ORDINANCE***

THE TOWNSHIP OF HOLTON HEREBY ORDAINS:

### **37.001 TITLE**

This ordinance shall be known and may be cited as the OPEN BURNING ORDINANCE.  
(effective 5/1/2011)

### **37.002 PERMITS FOR OPEN BURNING**

Burning permits are required to conduct all open burning, excluding cooking fires contained within a barbecue pit, fireplace, grill or other receptacle specifically designed for cooking food over an open fire (subsection A hereof), or for small recreational fires contained within a pit or approved burning container/receptacle (subsection B hereof). Burning permits may be obtained Monday – Thursday from 8 a.m. to 2 p.m. at the Township Hall, 821-2168. For burning permits Friday – Sunday, call 821-2685.

1. **Cooking Fires:** Cooking fires, as defined herein do not require a permit. Fires permitted for the cooking and smoking of food for personal, noncommercial uses provided that such fires are confined to a barbecue grill, barbecue pit, fireplace, smokehouse or other enclosure/receptacle specifically designed for cooking food over an open fire, and provided the emission of smoke and fumes does not irritate, annoy or constitute a nuisance to other property owners in the area.
2. **Recreational Fires:** Recreational fires on private property in an approved burning container/receptacle specifically manufactured and sold for recreational burning, or in a pit that does not exceed six feet (6') in diameter are allowed without a permit provided the following conditions and precautions are taken:
  - a. The burning shall not be located within thirty feet (30') from any structure and twenty feet (20') from any property line.
  - b. A responsible adult at least eighteen (18) years of age is present at all times until the extinguished ashes are cold.
  - c. Only clean wood products are used.
  - d. The fire does not emit any fumes that irritate, annoy or constitute a nuisance to others.
  - e. The atmospheric conditions are favorable.

The fire chief or his/her designee shall have the authority to terminate any recreational fire that he/she determines to be in an unsafe device, or is an unsafe condition or situation.

3. **Fires authorized by permits only.**
  - a. **Open Burning.** Materials burned in open pits shall be limited to only dry leaves, brush, and clean untreated lumber and stumps removed from the ground.
  - b. **Lots Clearing and Agricultural Burning.** Materials burned in fires for the purpose of cleaning lots or any agricultural purposes shall be limited to only dry leaves, brush, and clean untreated lumber and stumps removed from the ground.
  - c. **Bonfires.** Materials burned in bonfires shall be limited to only firewood, dry leaves, brush, and clean untreated lumber.

### **37.003 OPEN BURNING OF CERTAIN MATERIALS PROHIBITED**

Open burning of grass clippings, tires, building materials, demolition materials, paper products, or any product that produces smoke emissions that are offensive to the environment or occupants of surrounding properties is prohibited. Household waste may be burned in an approved incinerator with an approved cover. Approved incinerator and cover specs may be obtained from the township hall office.

### **37.004 LOCATION OF OPEN BURNING AND RULES**

Open burning of any non-prohibited material shall not be allowed:

1. Within thirty feet (30') of any structure
2. No burning if the winds are over ten (10) miles per hour
3. Burning shall be done in daylight hours only
4. A responsible adult at least eighteen (18) years of age is present at all times until the extinguished ashes are cold.
5. The emission of smoke and fumes does not irritate, annoy or constitute a nuisance to other property owners in the area
6. Thirty feet (30') from the travel portion of any road
7. Thirty feet (30') from any structure such as sheds, fences, homes, buildings, decks, wood piles, utility poles and property lines

### **37.005 TIME AND ATMOSPHERIC CONDITIONS**

All permit required open burning shall only be allowed during daytime hours, unless specifically permitted by the fire chief or his/her designee, and when atmospheric conditions do not cause a fire hazard. The fire chief or his/her designee may put a ban on burning if deemed necessary.

### **37.006 FIRE EXTINGUISHING EQUIPMENT**

A garden hose connected to a water supply or other approved fire extinguishing equipment (buckets containing water or sand; shovels; fire extinguisher with a minimum 2-a rating) shall be readily available for use at all open burning sites that require a permit.

### **37.007 ATTENDANCE**

All open burning shall have a responsible adult at least eighteen (18) years of age present at all times until the extinguished ashes are cold, knowledgeable in the use of fire extinguishment required by this permit, and familiar with the limitations which restrict open burning.

### **37.008 DISCONTINUANCE**

The fire chief or his/her designee is authorized to require that open burning be immediately discontinued if the chief or his/her designee determines it to constitute a hazardous condition.

**37.009 SANCTIONS FOR VIOLATIONS**

1. Any person or other entity who violates any of the provisions of this ordinance is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine of not more than three hundred and fifty dollars (\$350.00) plus costs, which may include all direct or indirect expenses, to which the township has been put in connection with the violation. A violator of this ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law. A repeated violation of this ordinance constitutes a separate violation.
2. Any person or entity who violates any of the provisions of this ordinance and who has been issued a municipal civil infraction violation notice as defined by Ordinance 2001-1 and who admits responsibility therefore within the time specified thereon shall pay a civil fine and costs at the Holton Township office.
3. The township Ordinance Enforcer, the County Sheriff, the County Deputy or the Fire Chief or his or her designee may issue civil infractions.

**37.010 REPEAL**

All ordinances or parts of ordinances in conflict herewith are repealed to the extent necessary to give this ordinance full effect.

**37.011 SEVERABILITY**

This ordinance and its various parts, sentences and clauses are hereby declared to be severable, and if any part, sentence, paragraph, section or clause is held to be invalid, the same shall not affect the validity of this ordinance as a whole.

**37.012 EFFECTIVE DATE**

This Ordinance shall take effect and be enforced thirty (30) days after its adoption and publication thereof.

Date: June 14, 2011

Township Clerk \_\_\_\_\_

Melanie Johnson

Introduced: June 14, 2011

Adopted: June 14, 2011

Published: June 30, 2011

Effective: July 30, 2011

## ***38.000 HOLTON TOWNSHIP BLIGHT ORDINANCE***

THE TOWNSHIP OF HOLTON, COUNTY OF MUSKEGON, HEREBY ORDAINS:

### **38.001 TITLE**

This ordinance shall be known as the Holton Township Blight Ordinance.

### **38.002 PURPOSE**

The purpose of this ordinance is to govern the minimum conditions and responsibilities of persons for maintenance of structures, equipment and exterior property, occupied or vacant, as well as vacant land, to prevent the aforementioned from being a public hazard, nuisance, or a detriment to the quality of life of other property owners in the township.

### **38.003 RESPONSIBILITY**

The owner(s) of the premises shall maintain the structures and exterior property at their expense.

### **38.004 DEFINITIONS**

**4.1 Exterior Property.** The open space on the premises and on adjoining property under the control of owners or operators of such premises.

**4.2 Garbage.** The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**4.3 Infestation.** The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

**4.4 Owner.** Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

**4.5 Pests.** Rodents, vermin, insects, and other pests.

**4.6 Rubbish.** Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal or wood debris, mineral matter, glass, crockery, and dust and other similar materials.

**4.7 Yard.** An open space surrounding a dwelling or structure.

**4.8 Vegetation.** All plant growth.



**38.005 RESIDENTIAL DISTRICTS INCLUDING R1,R2,R3,AND R4 OR ANY OTHER PROPERTIES IN ANY DISTRICT BEING USED FOR RESIDENTIAL PURPOSES.**

**5.1** All yards, interior, and exterior property shall be free and void of the accumulation of rubbish and garbage.

**5.2** The exterior of all structures shall be free and void of rotting and defacement; must be structurally sound; and must be free and void of any health and safety hazard.

**5.3** All structures shall be kept free from Pests. All structures in which Pests are found to have infested shall be promptly exterminated by commonly used processes that will not be injurious to human health.

**5.4** All rubbish and garbage must be disposed of in a clean and sanitary manner by being placed in containers customary for such use.

**5.5** All yard area within fifty (50) feet of any dwelling or structure that is visible from a public road or the yard of an adjacent property shall be free of vegetation that is more than eighteen (18) inches in height, excluding cultivated and maintained vegetation including trees and gardens.

**5.6** All building materials, equipment, and recyclables stored outdoors must be stored in a clean, orderly, and safe manner; must not create an environmental hazard; and must have a footprint of less than one thousand (1000) square feet.

**5.7** All fences, signs, yard ornaments, and other accessory objects must be maintained in good repair.

**38.006 COMMERCIAL DISTRICTS INCLUDING C1,C2**

**6.1** All yards, interior, and exterior property shall be free and void of the accumulation of rubbish and garbage.

**6.2** The exterior of all structures shall be free and void of rotting and defacement; must be structurally sound; and must be free and void of any health and safety hazard.

**6.3** All structures shall be kept free from Pests. All structures in which Pest are found to have infested shall be promptly exterminated by commonly used processes that will not be injurious to human health

**6.4** All rubbish and garbage must be disposed of in a clean and sanitary manner by being placed in containers customary for such use.

**6.5** All yard area within fifty (50) feet of any dwelling or structure, parking areas, and sidewalks that are visible from public road or the yard of an adjacent property shall be free of vegetation that is more than eighteen (18) inches in height, excluding cultivated and maintained vegetation including trees and gardens.

**6.6** All building materials, equipment, and recyclables stored outdoors must be stored in a clean, orderly, and safe manner; and must not create an environmental hazard.

**6.7** All fences, signs, yard ornaments, and other accessory objects must be maintained in good repair.

**38.007 AGRICULTURAL**

7.1 All yards, interior, and exterior property shall be free and void of the accumulation of rubbish and garbage.

7.2

7.3

7.4 All rubbish and garbage must be disposed of in a clean and sanitary manner by being placed in containers customary for such use.

7.5 All yard area within fifty (50) feet of any dwelling, parking areas, and sidewalks that are visible from a public road or the yard of an adjacent property shall be free of vegetation that is more than eighteen (18) inches in height, excluding cultivated and maintained vegetation including trees and gardens.

7.6 All building materials, equipment and recyclables stored outdoors must be stored in a clean, orderly, and safe manner; and must not create an environmental hazard.

7.7 All fences, signs, yard ornaments, and other accessory objects must be maintained in good repair.

**38.008 FOREST RECREATIONAL.**

8.1 All yards, interior, and exterior property shall be free and void of the accumulation of rubbish and garbage.

8.2 The exterior of all structures shall be free and void of rotting, defacement and broken glass; must be structurally sound; and must be free and void of any health and safety hazard.

8.3 All structures shall be kept free from Pests. All structures in which Pest are found to have infested shall be promptly exterminated by commonly used processes that will not be injurious to human health

8.4 All rubbish and garbage must be disposed of in a clean and sanitary manner by being placed in containers customary for such use.

8.5 All yard area within fifty (50) feet of any dwelling or structure that is visible from a public road or the yard of an adjacent property shall be free of vegetation that is more than eighteen (18) inches in height, excluding cultivated and maintained vegetation including trees, beds and gardens.

8.6 All building materials, equipment, and recyclables stored outdoors must be stored in a clean, orderly, and safe manner; must not create an environmental hazard; and must have a footprint of less than one thousand (1000) square feet.

8.7 All fences, signs, yard ornaments, and other accessory objects must be maintained in good repair.

**38.009 REPEAL**

All ordinances or parts of ordinances in conflict herewith are repealed to the extent necessary to give this ordinance full effect.

**38.010 SEVERABILITY**

This ordinance and its various parts, sentences and clauses are hereby declared to be severable, and if any part, sentence, paragraph, section or clause is held to be invalid, the same shall not affect the validity of this ordinance as a whole.

**38.011 EFFECTIVE DATE**

This ordinance shall take effect and be enforced thirty (30) days after its adoption and publication thereof.

Date:

Township Clerk \_\_\_\_\_

Melanie Johnson

Introduced: January 13, 2015

Adopted: January 13, 2015

Published: January 23, 2015

Effective: February 22, 2015

## ***40.000 DANGEROUS BUILDINGS ORDINANCE***

### **40.001 TITLE**

AN ORDINANCE TO AMEND THE DANGEROUS BUILDINGS ORDINANCE OF THE TOWNSHIP OF HOLTON CODE OF ORDINANCES TO INCORPORATE BY REFERENCE THE UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS, 1997 EDITION.

THE TOWNSHIP OF HOLTON HEREBY ORDAINS:

### **40.002 ADOPTION**

- 2.1 Holton Township adopts for the purpose of prescribing regulations governing conditions hazardous to life and property from dangerous buildings, and for all other relevant purposes, that certain code known as the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, promulgated by the International Code Council. The said adoption of the said code is made by this ordinance.
- 2.2 In addition to the definitions set forth in the Uniform Code for the Abatement of Dangerous Buildings, the following definitions apply:
  - a. Wherever the words “building official” are used in the Uniform Code for the Abatement of Dangerous Buildings, they shall be held to mean the Township Building Inspector.

### **40.003 SEVERABILITY**

The provisions of this Ordinance are declared to be severable, and the holding of any court of competent jurisdiction that any section hereof is invalid shall not impair or invalidate any other section.

### **40.004 REPEAL OF CONFLICTING ORDINANCES**

All Ordinances in conflict with this Ordinance to the extent of such conflict are hereby repealed.

### **40.005 EFFECTIVE DATE**

This ordinance shall be effective ten (10) days after publication.

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Melanie Johnson, Township Clerk

Introduced: April 12, 2011  
Adopted: April 12, 2011  
Published: April 27, 2011  
Effective: May 7, 2011

## ***41.000 ORDINANCE TO REGULATE CAMPING/CAMPER STORAGE***

THE TOWNSHIP OF HOLTON HEREBY ORDAINS:

### **41.001 PURPOSE**

To regulate camping units within Holton Township not covered by Michigan Public Health Code Act 368 of 1978, as amended and Mobile Home Commission Act 96 of 1987, as amended.

### **41.002 PROHIBITIONS**

No one shall occupy or locate a camping unit within the Township of Holton except in conformity with these regulations.

### **41.003 DEFINITIONS**

1. Camping – To live for a time in a camping unit, as when on vacation.
2. Camping Unit – A motor home, fifth-wheel trailer, travel trailer, folding tent camper (pop-up), truck camper, van conversion, or tent as commonly understood in the industry, or some other vehicle which has been converted for such use.
3. Owner – Person who has legal title to the property.
4. Primary Residence – Address eligible for principle residence exemption by the State of Michigan.
5. Special Event Camping – Any civic, religious, business or fraternal organization sponsoring an event such as, but not limited to: A rally, concert, revival, reunion, pow-wow, or any other event attended by the membership of the organization and/or the public.

### **41.004 CONFORMITY**

1. Campers and camping units are subject to, and must conform to, all laws, ordinances, and regulations at all levels of Government, Federal, State, County, and Township. Campers and other wheeled camping units must have valid plates, registration, and be road worthy.
2. Camping units shall be removed from all parcels after 14 total days per calendar year where an approved camping permit is not in effect or camping unit is not allowed under other conditions set forth in Sections 5, 6, & 8 contained in this Ordinance.
3. Camping permit must be posted at campsite.
4. Property owner is responsible for proper control of campers, site management, removal of garbage, and parking of additional vehicles.
5. Campsites cannot be improved beyond temporary purposes such as, but not limited to: Picnic table, fire pit, and/or children's play apparatus.

**41.005 PARKING AND STORAGE**

1. No camping unit shall be parked overnight on any public highway, street, or alley within the township.
2. Storage is allowed at owner’s primary residence, or it’s commonly owned contiguous parcel(s), for the owner’s camping units and one non-resident camping unit as long as they are ten (10) feet from other structures. Front, side, and back property line setbacks must apply.

**41.006 OWNER CAMPING**

A property owner is allowed to use one camping unit located at his primary residence, or it’s commonly owned contiguous parcel(s), for personal use without a permit or cumulative day limits.

**41.007 VISITOR CAMPING**

A property owner may have visitor camping units on his property for up to fourteen (14) total days per calendar year without a permit.

**41.008 SPECIAL EVENT CAMPING**

1. Special event camping requires a camping permit.
2. A two thousand (\$2,000) dollar security deposit is required.
3. Provision for security, parking, trash removal, and toilet facilities must be provided.
4. Special event camping is limited to four (4) consecutive days unless permission is given by the Township for additional days.

**41.009 PENALTY**

Any person, partnership, firm, association, or corporation who fails to comply with the rules as defined and set forth in this ordinance shall be deemed guilty of a civil infraction and subject to a fine as set forth in ordinance number 2001, chapter 42.

**41.010 SEVERABILITY**

Should any section of this ordinance be declared invalid, such declaration shall not affect the validity of the remaining sections of this ordinance.

**41.011 EFFECTIVE DATE**

This ordinance shall become effective thirty (30) days after the date of publication.

Date: September 10, 2013  
Township Clerk \_\_\_\_\_  
Melanie Johnson

Introduced: <u>September 10, 2013</u>	Published: <u>September 23, 2013</u>
Adopted: <u>September 10, 2013</u>	Effective: <u>October 23, 2013</u>

**Application for Camping Permit Valid for 30 days after date of issue.**  
***Do not leave fires unattended.***

1. Camping units shall not be occupied without a permit for a period exceeding fourteen (14) total days in any calendar year on private property outside of a designated campground. No permit shall be issued unless waste water is disposed of properly through an approved septic system, legal dump station or approved septic/waste hauler. In addition, electrical service must meet all codes and standards or be otherwise self-contained.
2. All garbage, refuse, human waste and trash shall be contained in animal proof containers and removed weekly from the land.
3. No camping unit shall serve as the permanent living quarters of its occupants.
4. Camping permit must be posted on unit visible from street.

Camper Owner(s) name/permanent addresses and phone number:

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Address/Parcel Number where camping/campers will be:

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Brief description of camping unit/color/size/type of unit/license number:

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Person to contact in case of emergency/with phone number:

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Permits must be obtained by the owner or user with written permission of the property owner at the Township office during regular business hours. No one shall occupy or locate a camping unit within the Township of Holton, except in conformity with this permit and in conformance with Holton Township Ordinances.

I/We do attest that the above information is true and accurate to the best of my/our knowledge. We agree to comply with all ordinances and regulation of Holton Township.

Signature of applicant \_\_\_\_\_ Date \_\_\_\_\_

Approved \_\_\_\_\_ Denied \_\_\_\_\_  
Township Official Signature \_\_\_\_\_ Date \_\_\_\_\_

## ***42.000 MUNICIPAL CIVIL INFRACTIONS***

AN ORDINANCE TO THE CODE OF ORDINANCES, TOWNSHIP OF HOLTON, BY ADDING A NEW CHAPTER 42 TO PROVIDE FOR CIVIL INFRACTIONS.

THE TOWNSHIP OF HOLTON ORDAINS:

### Addition of new Chapter.

A new chapter, Chapter 42, is added to the Code of Ordinances, Township of Holton, to read in its entirety as follows:

## **CHAPTER 42**

### **MUNICIPAL CIVIL INFRACTIONS**

#### **42.001 DEFINITIONS**

As used in this Chapter:

1. "Act" means Act No.236 of the Public Acts of 1961, as amended.
2. "**Authorized Township Official**" means a Police Officer or other personnel of the Township authorized by this Code or any Ordinance to issue Municipal Civil Infraction Citations or Municipal Civil Infraction Violation notices.
3. "**Bureau**" means the Township of Holton Municipal Ordinance Violations Bureau as established by this Chapter.
4. "**Municipal Civil Infraction Action**" means a civil action in which the Defendant is alleged to be responsible for a Municipal Civil Infraction.
5. "**Municipal Civil Infraction Citation**" means a written complaint prepared by an authorized Township Official, directing a person to appear in Court regarding the occurrence or existence of a Municipal Civil Infraction Violation by the person cited.
6. "**Municipal Civil Infraction Violation Notice**" means a written notice prepared by an authorized Township Official, directing a person to appear at the Township of Holton Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines as authorized under Sections 8396 and 8707(6) of the Act.



## **42.002 MUNICIPAL CIVIL INFRACTION ACTION: COMMENCEMENT**

A Municipal Civil Infraction Act may be commenced upon the issuance by an authorized Township Official of (1) a Municipal Civil Infraction Citation directing the alleged violator to appear in Court; or (2) a Municipal Civil Infraction Violation Notice directing the alleged violator to appear at the Township of Holton Municipal Ordinance Violations Bureau.

## **42.003 MUNICIPAL CIVIL INFRACTION CITATIONS; ISSUANCE AND SERVICE**

Municipal Civil Infraction Citations shall be issued and served by authorized Township Officials as follows:

1. The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
2. The place for appearance specified in a citation shall be the District Court.
3. Each citation shall be numbered consecutively and shall be in the form approved by the State Court Administrator. The original citation shall be filed with the District Court. Copies of the citation shall be retained by the Township and issued to the alleged violator as provided by Section 8705 of the Act.
4. A citation for a Municipal Civil Infraction signed by an authorized Township Official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief.
5. An authorized Township Official who **witnesses** a person commit a Municipal Civil Infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
6. An authorized Township Official may issue a citation to a person if:
  - a. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a Municipal Civil Infraction; or
  - b. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a Municipal Civil Infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the Township Attorney approves in writing the issuance of the citation.
7. Municipal Civil Infraction Citations shall be served by an authorized Township Official as follows:
  - a. Except as provided by Section 3-3(g) (2), an authorized Township official shall personally serve a copy of the citation upon the alleged violator.

- b. If the Municipal Civil Infraction Action involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting the copy of the citation upon the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building, or structure at the owner's last known address.

**42.004 MUNICIPAL CIVIL INFRACTION CITATIONS; CONTENTS**

1. A Municipal Ordinance Citation shall contain the name and address of the alleged violator, the Municipal Civil Infraction alleged, the place where the alleged violator shall appear in Court, the telephone number of the Court, and the time at or by which the appearance shall be made.

2. Further, the citation shall inform the alleged violator that he or she may do one of the following:

- a. Admit responsibility for the Municipal Civil Infraction by mail, in person, or by representation, at or by the time specified for appearance.
- b. Admit responsibility for the Municipal Civil Infraction "with explanation" by mail by the time specified for appearance, or in person, or by representation.
- c. Deny responsibility for the Municipal Civil Infraction by doing either of the following:
  - 1) Appearing in person for an Informal Hearing before a Judge or District Court Magistrate, without the opportunity of being represented by an Attorney, unless a Formal Hearing before a Judge is required by the Township.
  - 2) Appearing in Court for a Formal Hearing before a Judge, with the opportunity of being represented by an Attorney.
  - 3) The citation shall also inform the alleged violator of all of the following:
    - a) That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the Court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.
    - b) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the Court in person, by mail, by telephone, or by representation within the time specified for

appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.

- c) That a hearing shall be an Informal Hearing unless a Formal Hearing is requested by the alleged violator or the Township.
- d) That at an Informal Hearing the alleged violator must appear in person before a Judge or District Court Magistrate, without the opportunity of being represented by an Attorney.
- e) That at a Formal Hearing the alleged violator must appear in person before a Judge with the opportunity of being represented by an attorney.

4) The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a Default Judgment against the alleged violator on the Municipal Civil Infraction.

#### **42.005 MUNICIPAL ORDINANCE VIOLATIONS BUREAU**

1. **Bureau established**, The Township hereby establishes a Municipal Ordinance Violations Bureau ("**Bureau**") as authorized under Section 8396 of the Act to accept admissions of responsibility for Municipal Civil Infractions in response to Municipal Civil Infraction Violation notices issued and served by authorized Township Officials, and to collect and retain civil fines and costs as prescribed by this Code or any Ordinance.
2. **Location; supervision; employees; rules and regulations.** The Bureau shall be located at Township Hall Municipal Building, and shall be under the supervision and control of the Township's Treasurer. The Township's Treasurer, subject to the approval of the Township Board, shall adopt rules and regulations for the operation of the Bureau and appoint any necessary qualified Township employees to administer the Bureau.
3. **Disposition of Violations.** The Bureau may dispose only of municipal Civil Infraction Violations for which a fine has been scheduled and for which the Municipal Civil Infraction Violation Notice (as compared with a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the Bureau. Nothing in this Chapter shall prevent or restrict the Township from issuing a Municipal Civil Infraction Citation for any violation or from prosecuting any violation in a Court of competent jurisdiction.
4. **Bureau limited to accepting admissions of responsibility.** The scope of the Bureau's authority shall be limited to accepting admissions of responsibility for Municipal Civil, Infractions and collecting and retaining civil fines and costs as a result of those admissions. The Bureau shall not accept payment of a fine from any

person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the Bureau determine, or attempt to determine, the truth or falsity of any factor matter relating to an alleged violation. No person shall be required to dispose of a Municipal Civil Infraction Violation at the Bureau and may have the violation processed before a Court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded to law.

5. **Municipal Civil infraction Violation Notices.** Municipal Civil Infraction Violation Notices shall be issued and served by authorized Township Officials under the same circumstances and upon the same persons as provided for citations as provided in Sections 42-3(f) and (g) of this Chapter. In addition to any other information required by this Code or other Ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the Bureau, the methods by which an appearance may be made, the address and telephone number of the Bureau, the hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.
6. **Appearance; payment of fines and costs.** An alleged violator receiving a Municipal Civil Infraction Violation Notice shall appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in the Municipal Civil Infraction Violation Notice. An appearance may be made by mail, in person, or by representation.
7. **Procedure where admission of responsibility not made or fine not paid.** If an authorized Township Official issues and serves a Municipal Ordinance Violation Notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the Bureau, a Municipal Civil Infraction Citation may be filed with the District Court and a copy of the citation may be served by first-class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the Court does not need to comply in all particulars with the requirements for citations as provided by Section 8705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the Municipal Ordinance Violation Notice and shall fairly inform the alleged violator how to respond to the citation.

**42.006 SCHEDULE OF CIVIL FINES ESTABLISHED**

A schedule of civil fines payable hereunder for admissions of responsibility by persons served with Municipal Ordinance Violation Notices shall be established by the duly adopted Resolution of the Township Board.

Severability. Should any part of this Ordinance be held invalid by a court of competent jurisdiction, the remaining parts of the Ordinance shall be severable and continue in full force and effect.

Ordinance Repeal. All ordinances or parts of ordinance in conflict with the provisions of this Ordinance are hereby repealed upon the effective date of this Ordinance.

Effective Date. This Ordinance will become effective ten (10) days after the date of adoption.

Melanie Johnson Township Clerk

Introduced: January 9, 2001

Adopted: January 9, 2001

Effective: January 19, 2001

Published: January 19, 2001

## ***48.000 OAKWOOD CEMETERY ORDINANCE***

The Township Board of the Township of Holton, Muskegon County, Michigan also acting as the statutory Board of Health of said Township, hereby ORDAINS:

### **48.001 PURPOSE**

An ordinance providing for the care and maintenance have the Township of Holton Oakwood Cemetery, for the creation of a perpetual care fund therefor, and establishing regulations for the future sale of burial spaces therein, and relative to interment and payment of expenses incident thereto.

### **48.002 LOCATION OF CEMETERY**

The Holton Township Oakwood Cemetery, hereinafter called the Cemetery, comprises all of the lands now held in Trust for public cemetery purposes by the Township Board of Holton Township, Muskegon County, Michigan, in its capacity as statutory Board of Health of the Township of Holton, heretofore, acquired and now set apart and dedicated for cemetery purposes situated in said township and described as follows, to wit:

That part of the Northeast Quarter (NE 'A) of the Northeast Quarter (NE 'A) of Section 27, of Township 12 North, Range 15 West, described as follows: - Commence at the NE corner of Section 27, west 636 ft. for a point of beginning: west 1058 ft., south 418 ft., east 396 ft., south 10 ft., east 182 ft. north-east along M-120 right of way 218 ft. north, 237 ft. to the point of beginning.

**48.003 TITLE AND CONVEYANCING:** Upon and after the effective date of this ordinance, in the care and maintenance thereof, the sale of burial spaces in the cemetery according to the plat of the cemetery on official file with the clerk of the township, or by person or persons as appointed by the Township Board as may be from time to time hereafter amended or extended, and interment therein and the payment of expenses incident thereto, shall be governed by this ordinance.

1. **TITLE:** The title is fee simple to each burial space in the Holton Township Oakwood Cemetery heretofore conveyed, whether presently constituting an occupied lot or not, and to any burial space hereafter conveyed, remains and shall remain vested in the Township Board, but such conveyance vests and shall vest in each purchaser full burial rights therein, subject to the regulations herein contained.

2. **CEMETERY DEED:** A cemetery deed in form approved by the cemetery superintendent and executed by he/she on behalf of the Township Board on payment of the purchase price and delivered to the purchaser or purchasers as grantee or grantees of a burial space or burial spaces, containing an accurate description thereof, and the name and address of the purchaser or purchasers thereof, and a permanent record thereof shall be kept and maintained by the cemetery superintendent in his office and in the office of the Township clerk. Cemetery lots or burial spaces remaining vacant (40) years from the date of their sale, after due notice as required by the Ordinance, shall automatically revert back to the Township per Holton Township meeting on May 22, 2000.

3. **OWNER/OWNERS:** The grantee or grantees therein shall thereafter be deemed the owner or owners thereof subject to the provisions of this ordinance and any amendment or amendments thereof hereafter adopted, until such title shall be divested by conveyance, devise, inheritance, or operation of law, in the same manner as provided by law for the devolution of title to real estate, except that the evidence of any such devolution shall be filed and recorded in the office of the cemetery superintendent and the township clerk instead of the office of the County Register of Deeds.

**48.004 DEFINITIONS:**

1. BOARD: means the Township Board of Holton Township, Muskegon County, Michigan, acting as the Board of Health of Holton Township, whenever appropriate under the statutes of the State of Michigan.
2. SUPERVISOR: means the Holton Township Supervisor. Supervisor will supervise all care of the cemetery. Supervisor appoints a person to help with cemetery supervision, referred to as the superintendent.
3. SUPERINTENDENT: means the Holton Oakwood Cemetery Superintendent appointed by the Holton Township Board who shall have the powers and duties prescribed by this ordinance.
4. CLERK: means the Holton Township Clerk. The Clerk is to keep all records.
5. TREASURER: means the Holton Township Treasurer. Treasurer to receive all monies.
6. OWNER: means any person or persons owning the privilege, license or right of interment of a human body in any burial space in the cemetery.
7. BURIAL SPACE: means a plot or portion thereof in the cemetery designed and intended for the interment of a human body, but not already in use for such purpose, nor is the space to be used for any other purpose except that which is incidental to the interment of a human body and the continued and/or subsequent care of the lot or portion thereof a burial space is to be used for interment of either/or: one adult; a mother and newborn child; two babies twelve (12) month of age or younger; or the interment of no more than four (4) -crematory inurnment per burial space; or an urn on top of the vault.
8. OCCUPIED SPACE: means any burial space in which a human body has been and remains therein interred.
9. BURIAL LOT: means numbered divisions as shown on the record plat, which consists of two or more burial spaces.
10. CEMETERY: is hereby defined to include a burial park for earth interments, a community mausoleum for vault or crypt interments, a crematory or crematorium for cinerary interments, or a combination of one or more than one thereof.
11. INTERMENT: means the permanent disposition of the remains of a deceased person by cremation and inurnment, entombment, or burial.
12. MEMORIAL: means a term to include a monument, marker, tablet, headstone, private mausoleum or tomb for family or individual use, tombstone, coping, urn and crypt and niche place.
13. MONUMENTS mean a tombstone or memorial of granite or marble, which shall extend above the surface of the ground and no more than two monuments per site. All bronze veteran markers to be

attached to back of tombstone.

14. **MARKER:** means a memorial flush with the ground.
15. **LOT MARKER:** is a term referring to any means used by the direction of the Cemetery superintendent to locate corners of the lot or plot, such markers shall be below the surface of the ground.
16. **CERTIFICATE OF OWNERSHIP:** means the original cemetery deed given by the cemetery Superintendent to the original purchaser.
17. **BURIAL PERMIT:** means the payment of a fee to the cemetery superintendent by the person(s) making arrangements for interment and all laws, ordinances, rules and regulations relative to the burial have been complied with before a burial site shall be prepared for any interment.
18. **PERPETUAL CARE:** means the routine custodial maintenance care given the cemetery grounds the individual burial sites, and the permanent landscape plantings throughout the year.

#### **48.005 LOT & BURIAL SPACE CARE**

1. **CARE OF LOTS:** Provision for the perpetual, general, personal, and special care of lots.
2. **PERPETUAL CARE FUND:** A perpetual care fund for the care and maintenance of the Oakwood Cemetery is hereby established and created, to consist of all monies heretofore paid to the Township Treasurer by owners of burial spaces and/or occupied lots in the cemetery, for, and allocated to, a perpetual care fund therefore, and all moneys hereafter paid by existing owners of burial spaces and occupied lots and by future purchasers of burial spaces in the cemetery, to the Treasurer for the perpetual care fund. All moneys now in the perpetual care fund and all moneys hereafter paid to the Treasurer for such fund shall constitute a trust fund of which the Treasurer shall be custodian, and shall be invested and kept invested by the Treasurer, as a permanent fund in good safe, interest -bearing securities, and the interest and income there from shall be used, under the supervision and direction of the Township Board, only for the purposes of the care and maintenance of the occupied lots and/or burial spaces of the owners who have contributed or shall contribute therefore to such perpetual care fund.
3. **BASIC PERPETUAL CARE DEFINED:** Perpetual care shall include the following items of basic lot care:
  - A. Annual spring-clean up
  - B. Periodic cutting of grass
  - C. Raking of leaves.
  - D. Trimming of trees and shrubs.
  - E. Refilling sunken graves.
  - F. Watering of grassPerpetual care shall not include sodding or sowing of grass.
4. **GENERAL CARE OF CEMETERY GROUNDS:** General maintenance by cemetery custodians under the direction of the Cemetery Superintendent include:



- A. Grading, leveling or excavating upon a burial space.
- B. Planting of perennial flowers, or other vegetation - plantings without permission may be removed under the direction of the Cemetery Superintendent. Plantings of trees and shrubs are prohibited. No benches or large ornament type decoration is allowed on gravesite.
- C. Trimming, removal of any vegetation in the interest of maintaining aesthetic cemetery appearance.
- D. Removal of any refuses of any kind or nature including the decaying, deteriorated, damaged and/or unsightly decorations.
- E. Maintenance, repair or replacement of any memorial, tomb, or mausoleum placed or erected upon lots; doing any special or unusual work; reconstruction of any damage to marble or granite work caused by elements, acts of God, common enemy, thieves, vandals, strikers, mischief makers, unavoidable accidents all may be done under the direction of the Cemetery Superintendent and staff only at the owner(s) expense.

5. OWNER CARE OF BURIAL SPACE: Owners or their Agents shall enjoy the privilege of decorating and maintaining the decorations of the burial space. The following rules shall apply:

Coping, fences, curbs, benches steps, structures of wood or other equally perishable material are prohibited. These structures or enclosures established on any lot previous to the adoption of these regulations, which have, in the judgment of the cemetery management, become unsightly by reason of neglect or age shall be removed.

- A. No elevated mounds shall be built over graves and no lot shall be filled above the grade established by the Township.
- B. All ground planting of trees or shrubs is prohibited, except trees planted by the Township.
- C. Receptacles for cut flowers will be permitted if installed flush with the surface of the lawn. The use of glass jars or bottles as receptacles for cut flowers is strictly prohibited. Artificial flowers are permitted
- D. Urns shall be permitted only if properly installed and maintained.
- E. Arches for hanging baskets are permitted but must not be anchored.
- F. Toys or other unsightly objects will not be permitted as grave decorations and when used, will be removed without notice.
- G. The planting of hedges is strictly prohibited. Existing hedges will be removed whenever they become unsightly or encroach upon an adjoining lot or path.
- H. The Township will remove without notice all flowers, trees and shrubs that have become unsightly or dangerous.
- I. Cement covered graves or larger monuments/ mausoleum above ground will not be permitted.
- J. The Township Board reserves the right to regulate the method of decorating gravesites and grave lots, so that an appropriate and uniform appearance can be maintained throughout the cemetery. Any monument, effigy, or other structure that does not conform to this Ordinance or that is inconsistent with the uniform character and appearance of the cemetery shall be removed by the Township
- K. The Township shall not be responsible for any kinds of damage to owner decorations by the elements, vandals, and thieves or by any causes beyond the control of the cemetery management.
- L. One flag holder will be permitted for the grave of each veteran whose last service was honorable and is interred in the Township owned cemetery.

**48.006 BOUNDARIES**

1. BOUNDARY MARKING: All landmarks or corner stone's shall be set by the superintendent or under his supervision and shall not be altered or removed. No landmarks or corner stone's indicating boundaries of lots shall be set above the surface of the ground. This includes a hedge, wall, curbing, fence or other methods of enclosures are prohibited.

#### **48.007 VAULTS**

1. BURIAL VAULTS: All interments shall be within a standard concrete, vault or grave liner installed or constructed in each burial space before interment. Exceptions are: 1. the interment of a newborn infant or small child; and 2. the interment of a crematory receptacle.

#### **48.008 BURIAL SPACE LOT SALE**

1. SALE OF BURIAL SPACES LOTS: On or after the effective date of this ordinance, no burial space in the cemetery shall be sold by the Holton Township Board except with concurrent payment into the Perpetual Care Fund. The list of charges for a burial space and perpetual care shall be kept in the office of the Township Clerk and the Cemetery Superintendent. The charges shall reflect a difference between resident and non-resident purchasers of burial space(s), lot(s). Such charges are to be adjusted by the Township Board as from time to time it is deemed necessary.

2. BURIAL SPACE RECORDS: All burial sales shall be made on a form approved by the Township Board, which grants a right of burial only and does not convey any other title to the lot or burial space sold. The Office of the Township Clerk shall maintain official records concerning all sale of burial spaces, burials, issuance of burial permits, and any perpetual care fund, separate and apart from any other records of the township and the same shall be open to public inspection at all reasonable business hours. The Cemetery Superintendent and Cemetery Sextant shall keep a duplicate record for their convenience.

3. BURIAL SPACE PURCHASERS: No sale shall be made to funeral directors or to any person or organization for speculative purposes. The Cemetery Superintendent shall issue the Cemetery Deed to purchaser(s).

4. BURIAL RIGHTS TRANSFER: The Township will repurchase any cemetery lot or burial space from the owner for the original price paid the township upon written request of said owner or his legal heirs or representatives.

5. DESCENT OF TITLES-FORFEITURE OF VACANT CEMETERY LOTS OR BURIAL SPACES: Cemetery lots or burial spaces sold after the effective date of ordinance and remaining vacant 40 years from the date (May 22, 2000), their sale shall automatically revert to the township upon occurrence of the following events: If no written response to the notice indicating a desire to retain the cemetery lots or burial spaces in question is received by the Township Clerk from the last owner of record of said lots or spaces, or his heirs or legal representatives, within sixty (60) days from the date of mailing of said notice, then the cemetery lots or burial spaces shall automatically revert to the Township, who shall then be free to re-convey the title consistent with the requirements of this Ordinance.

6. CORRECTION OF ERRORS: The Township reserves, and shall have, the right to correct any errors that may be made by it either in making interments, disinterment or removals, or the description, transfer or conveyance of any interment property, either by canceling such conveyance and substituting any conveyance in lieu thereof other interment property of equal value and similar location as far as possible, or as may be selected by the Township or, in the sole discretion of the Township, by refunding the amount of money paid

on account of said purchase. In the event such error shall involve the interment of the remains of any person in such property, the Cemetery reserves, and shall have the right to remove or transfer such remains so interred to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof.

#### **48.009 CEMETERY CONDUCT**

1. Persons shall:
  - A. Enter through established gates.
  - B. Deposit rubbish or debris in receptacles provided.
  - C. Permit all plant material, domestic or wild, fresh or artificial to be undisturbed.
  - D. Not deface or injure any memorial, fence or other structure.
  - E. Not consume any alcoholic beverages on cemetery grounds.
  - F. Maintain the peacefulness, quiet, good order, and proper conduct.
  - G. Permit any dog, horse or other domestic animal to enter or remain in the cemetery, unless such animal is contained within a vehicle.
  - H. Not use any form of advertising or sales solicitation on cemetery premises.
  - I. Not Carry or discharge firearms in or adjacent to the cemetery except during authorized services.
  - J. Adults to accompany children under the age of eighteen (18) years.
  - K. Not expect Cemetery Custodians to assist them with any work except as authorized by the Cemetery Superintendent.
  - L. Use established roadways, walks and avenues for foot travel.
  - M. Use established roadways and avenues for vehicular travel.

2. EXCEPTIONS TO THE RULES OF CONDUCT: Special cases may arise in which literal enforcement of a rule may impose unnecessary hardship. The Cemetery management, therefore, reserves the right to make exceptions, suspensions, or modifications of any of these Rules of Conduct, without notice, when in the judgment of the Cemetery Management such action appears necessary; and such temporary exception, suspension or modification shall in no way be construed as affecting the general application of such Rules of Conduct.

3. VEHICLE REGULATIONS: The use of automobiles, bicycles, motorcycles on cemetery grounds shall comply with the following:

- A. The speed of all motorized vehicles is to be fifteen miles per hour or less; the speed of bicycles shall be ten miles an hour or less.
- B. No vehicle shall be parked in a manner so as to obstruct free passage along any roadway within the cemetery.
- C. Vehicles with running motors shall not be left unattended.
- D. No vehicle may drive upon or across any burial space, lot, or ornamental ground.
- E. No vehicle may pass or attempt to pass a vehicle going in the same direction.
- F. No recreational type vehicles (dirt bikes, snowmobiles, or quads) will be allowed.

#### **48.010 INTERMENTS/DISINTERMENTS**

1. FUNERALS & INTERMENTS: No interment shall take place without a Burial Permit, nor until the

person making arrangements for the interment has complied with all laws, ordinances and rules and regulations relative to burials. Funeral directors making arrangements for burials shall be responsible for all interment charges if not paid by the owner or his agent. The charges shall be as time to time amended by the Township Board.

2. **INTERMENT REQUIREMENTS:** The appropriate burial permit for the burial space involved shall consist of the permit from the local health office; the receipt of purchase of said space for the given burial together with appropriate identification of the person to be buried therein. Where such information has been lost or destroyed, the Township Clerk shall be satisfied, from the records, that the person to be buried in the burial space is an authorized and appropriate one before interment is commenced.

No graves shall be opened except by workmen employed by the Township. Funeral directors are to arrange burial time so that the interment can be completed by 5:00 P.M. Thirty-six hours (36) notice is required prior to any interment and at least a week's notice for disinterment or removal.

The location of the interment site shall be designated by the lot owner, and should the lot owner fail to do this, the Township reserves the right to make the interment in a location of their designation. Any and all interments at Oakwood Cemetery Holton Township will be at the discretion of the Cemetery Superintendent. Consideration must be based on weather conditions. Weather conditions must not endanger the health or well-being of the employee of Oakwood Cemetery. When a family requests a winter burial, grave opening and closing charges will be twice the summer rates. Snow plowing/snow removal cost will be in addition to the opening and closing charges. During a winter burial, only cemetery personnel are to be present along with funeral home personnel.

3. **DISINTERMENT OR REMOVAL:** Disinterment or removal shall be carried on:
  - A. No disinterment will be permitted until full payment of disinterment has been received.
  - B. When the cemetery is directed to make a disinterment by order of a court of competent jurisdiction and a certified copy of such order has been filed with the Superintendent.
  - C. When the coroner directs the disinterment for the purpose of holding an inquest and has filed with the Superintendent, his signed authorization to release the body to himself and his lawful agents in such case the coroner or his lawful agents must make the disinterment.
  - D. When the heirs request, in writing authorizing the removal to another burial space either within the cemetery or to another burial location, this request shall be accomplished under the supervision of the Office of the Township Clerk and the Cemetery Superintendent using resources of a funeral home and/or obtaining adequate permits for transport on public roadways. Opening/closing expenses of gravesite will be the responsibility of heirs.

#### **48.011 MEMORIALS**

1. **MONUMENTS, MARKERS and MEMORIALS.** Monuments and markers placed by owners in the cemetery shall be placed upon the burial space or lot in such locations as shall be approved by the Superintendent to conform to permanence and uniformity.
  - A. All markers or memorials must be of stone or other equally durable composition.
  - B. Any large upright monument must be located upon a suitable foundation to maintain the same in an erect position. Such footing or foundation must be placed and constructed by the Township at cost to the owner of the burial space or lot.

- C. The maximum height from the ground level to the top of the monument shall be (30) inches.
- D. Markers and Plaques - When plaque is used with marker, plaque must be attached to marker.

**48.012 ENFORCEMENT**

- 1. ENFORCEMENT OF RULES. The Township is hereby empowered to enforce these ordinances and to exclude from the Cemetery any person violating the same; have charge of the grounds and buildings including the conduct of funerals, traffic, employees, plot owners and visitors; and, at all times shall have supervision and control of all persons in the Holton Township Oakwood Cemetery.

**48.013 REPEAL**

- 1. REPEAL. All previously existing ordinances and rules and regulations relative to the cemetery whenever inconsistent with this ordinance are hereby repealed.

**48.014 VIOLATIONS & PENALTY**

- 1. VIOLATIONS AND PENALTY. Any person convicted of a violation of any prohibitory provision of this ordinance shall be punished by a fine not exceeding \$500.00 and/or imprisonment in the county Jail for a term not exceeding thirty (30) days at the discretion of the Court.

**48.015 EFFECTIVE DATE**

- 1. EFFECTIVE DATE. This ordinance shall take effect upon expiration of thirty (30) days from the date of the adoption hereof by the Township Board, and there being no newspaper published in the Township of Holton, notice hereof shall be given by posting a copy of this ordinance in each of five public places in this Township at least twenty (20) days before the effective date hereof, these public places being the Township Hall, Township Public Library, Post Office, Holton School Administration Office, and the Fire Barn Office.

Ordinance Amended: May 12, 2015

Effective Date: June 2, 2015

***49.000 ORDINANCE FOR PARKING OF SEMI-TRUCKS, TRACTORS, AND TRAILERS ON PUBLIC ROADS***

THE TOWNSHIP OF HOLTON ORDAINS:

**49.001 PARKING**

Semi-trucks, tractors, trailers, and other similar sized vehicles are prohibited from parking on public roads in Holton Township except for the purpose of loading or unloading their vehicle. Parking will be limited to one hour for this purpose.

**49.002 EFFECTIVE:**

Thirty (30) days after date of publication.

Ordinance adopted January 20, 2009

MELANIE JOHNSON

Township Clerk

PUBLISH: February 06, 2009

***50.000 PARK RULES ORDINANCE***

An ordinance to provide for the use, protection, regulation and control of the public parks and park facilities and other matter concerning recreation, conservation, education, historic and scenic areas and

preserves and parkways, and to provide for the adoption of supplementary rules and regulations and other matters related to the use of and conduct on park property.

THE TOWNSHIP OF HOLTON, MUSKEGON COUNTY, MICHIGAN ORDAINS:

**50.001 TITLE**

This ordinance may be known and referred to as the Holton Township Park Ordinance.

**50.002 PUBLIC USE AND HOURS**

1. Permits
  - a. Applications for permits for reserved park space shall be made upon forms to be furnished by Holton Township
  - b. Application shall be made in advance of the time of the reservation request sufficient to allow at least 12 hours posted notice of reservation of space.
  - c. In the event more applications for reserved space are received than spaces available, such applications shall be considered in the chronological order received
2. Fees and charges

Fees and charges may be assessed by Holton Township for the use of any facility, land, area, or program on Township Park property.
3. Hours

No person or vehicle shall remain upon property administered by or under the jurisdiction of Holton Township between the hours of 1 hour after sunset and sunrise unless prior approval is given by Holton Township.

**50.003 PROTECTION OF PROPERTY**

1. Destruction of buildings, markers, monuments and other properties shall be prohibited, and no person shall, on Township Park property:
  - a. Willfully destroy, deface, alter, change or remove any monument, stone marker, bench mark, stake, post or blaze, marking, or designate any boundary line, survey line, or reference point.
  - b. Cut, break, mark upon or otherwise injure any building, equipment, bridge, drain, wall, fountain, lamp post, fence, gate, hedge, or other structure.
  - c. Deface, destroy, or remove any placard, notice or sign, whether permanent or temporary, posted or exhibited within or upon park property.
  - d. Appropriate, excavate, injure or destroy any historical or prehistorical ruin or any object of antiquity, without permission of Holton Township.
2. Destruction of plant life and natural surrounding shall be prohibited and no person shall:
  - a. Cut, remove, or destroy any tree, sapling, seedling, bush or shrub, whether alive or dead, or chip, blaze, box, girdle, trim or otherwise deface or injure any tree or shrub, or break or

remove any branch, foliage, flower, or any tree or shrub, or pick, gather, uproot, remove or destroy any flower, plant, or grass.

- b. Remove or cause to be removed any sod, earth, humus, peat, boulders, gravel, or sand, without written permission of Holton Township.
3. The following rules shall apply to fires on Township Park property:
- a. No person shall willfully set or cause to be set on fire any tree, woodland, brush land, grassland, or meadow within or upon the property of Holton Township.
  - b. No person shall build any fire upon Holton Township property except within the fireplaces, receptacle or open spaces approved and designated by Holton Township for such purpose.
  - c. No person shall drop, throw or otherwise scatter lighted matches, burning cigars, cigarettes, tobacco paper or other flammable materials within or upon any property of Holton Township.
  - d. Fires shall not be left unattended. All fires shall be extinguished upon leaving the immediate vicinity.

#### **50.004 PROTECTION OF WILDLIFE**

It shall be unlawful for any unauthorized person while on Township Park property to injure or kill any wildlife.

#### **50.005 TRAFFIC AND PARKING**

1. It shall be unlawful for the operator of a vehicle to stop, stand, or park said vehicle in any place marked as a passenger or loading zone, other than for the expeditious loading or unloading of passengers, or for the unloading and delivery or pick up and loading of materials.
2. It shall be unlawful for the operator of a vehicle to stop, stand, or park such vehicle upon any roadway or in any parking area in such manner as to form an obstruction to traffic thereon.
3. It shall be unlawful to park any vehicle in any area which is designated as a prohibited parking area.
4. It shall be unlawful to drive or park any motor vehicle in or upon Holton Township property which is used for recreational purposes, unless otherwise allowed by these rules.

#### **Horses**

It shall be unlawful for any person to ride, lead or cause to suffer a horse to be upon any property administered by or under the jurisdiction of Holton Township Except on specifically designates and posted parking areas.

#### **Motor-Driven Vehicles**

It shall be unlawful for any person to:



1. Operate a motor-driven vehicle of any kind or nature except on roads or designated parking areas.
2. Operate a motor-driven vehicle on any park road exceeding posted speed limits. Any person driving a vehicle on a park road shall drive at a careful and prudent speed not greater than nor less than is responsible and proper, having due regard to the traffic, surface and width of the road and of any other condition then existing, and no person shall drive any vehicle upon a park road at a speed greater than will permit him to bring said vehicle to a stop within the assured clear distance ahead.
3. Operate any motor-driven sled, or snowmobile on any property under the management, supervision or control of Holton Township except where permitted by posted notice.
4. Operate any vehicle upon Holton Township property, including but not limited to, any area designated for the parking of vehicles, in a careless or negligent manner likely to endanger any person or property.
5. Drive any vehicle upon Holton Township property while under the influence of intoxicating liquor or narcotic, drug, barbitol or any derivative of barbitol.
6. Drive any vehicle upon Holton Township property while his ability to do so has been impaired by the use of intoxicating liquor or by the use of drugs or narcotics.
7. Operate any motor vehicle upon Holton Township property while his license to so operate has been suspended or revoked by the State of Michigan.
8. Operate a motor vehicle upon Holton Township property without having a valid operator's license, motor vehicle registration certificate and proof of the minimum liability coverage or uninsured motor vehicle fee as required by the State of Michigan vehicle code in his possession.
9. Operate any vehicle upon Holton Township property contrary to posted traffic signs, symbols, rules or regulations or marked roadways.
10. Operate any motor vehicle in any manner upon Holton Township property which results in excessive noise or disturbs the peace, quiet or tranquility of the area.
11. Leave, or cause to be left, any vehicle upon property administered or under the jurisdiction of Holton Township between 1 hour after sunset and sunrise.
12. Operate or ride on a motorcycle or motor-driven cycle without wearing a crash helmet approved by the Department of State Police. Rules of the Department of State Police for the implementation of Section 658, subsection (d) of 1949, PA 300, as amended, shall apply to this rule.

#### Operation of Bicycles

1. Bicycles shall be operated as closely to the right-hand curb or right-hand side of the roadway as conditions will permit and not more than two bicycles shall be operated abreast.
2. It shall be unlawful for the operator of any bicycle where upon any roadway, to carry any person upon the handlebar or frame of any bicycle, or for any person to so ride upon such bicycle.

3. Bicycles may be operated upon such roadways/trails as may be posted allowing such use; provide, however, no such use shall be allowed between 1 hour after sunset and sunrise.

#### **50.006 TRESPASS**

1. Livestock-No person shall drive or cause to be driven any horses, cattle, sheep, goats, swine, or other livestock upon or across property administered by or under the jurisdiction of Holton Township, without the written permission of the Township or its agent.
2. Peddling and soliciting-It shall be unlawful for any person to peddle or solicit business of any nature whatsoever, or to distribute handbills, or other advertising matter, to post unauthorized signs on any lands, water, structures, or property administered by or under the jurisdiction of Holton Township, or to use such lands, water, structures or property unless first authorized in writing by Holton Township or its agent.
3. Unlawful obstruction-No person, firm or corporation shall by force, threats, intimidations, unlawful fencing, enclosing, or by any other means prevent or obstruct any person from entering, leaving or making full use of any property administered by or under the jurisdiction of Holton Township.
4. Hindering employees-No person shall interfere with or in any manner hinder any employee or agent of Holton Township while performing their official duties.
5. Resisting park ranger-No person shall interfere with any park ranger or police officer in the discharge of his duties; or fail or refuse to obey any lawful command of any park ranger or police officer.
6. Impersonation of park ranger-No person shall impersonate any member of the park ranger force for any reason whatsoever.
7. Alcoholic beverages-No person shall have in their possession any intoxicating beverage while in or upon the property administered by or under the jurisdiction of Holton Township unless previously authorized by Holton Township for specific community events.
8. No person shall sell, use or have in his possession any drug or narcotic; the sale, use or possession of which is prohibited by the state law.
9. Personal conduct-
  - a. It shall be unlawful for any person to be under the influence of intoxicants, or to engage in any violent, abusive, loud, boisterous, vulgar, lewd, wanton, obscene or otherwise disorderly conduct, or to disturb or annoy others, while in or on any property administered by or under the jurisdiction of Holton Township.
  - b. It shall be unlawful to conduct or to participate in any form of gambling, lottery or game of chance upon park property.
10. Use of loudspeaker-It shall be unlawful to use a loudspeaker, public address system or amplifier within or upon Holton Township property without a written permission of Holton Township.

11. Fireworks-No person shall fire, discharge or have in his or her possession any rocket, firecracker, torpedo, squib, or other fireworks or any substance of an explosive nature within or upon the property of Holton Township without prior consent of Holton Township.
12. Firearms –No person shall at any time, bring into or upon the township park’s properties, nor have in his or her possession, nor discharge, or set off anywhere upon said properties, a revolver, pistol, shotgun, rifle, air gun, or any gun, rifle, firearm or bow or other weapon that discharges projectiles either by air, explosive substance or any other force, provide however, that this section shall not apply to any deputy sheriff, police officer, peace officer, park ranger, or other duly appointed law enforcement officer while carrying out the duties and responsibilities of his position nor to any person while on or in those areas which may from time to time be designated as hunting areas by Holton Township or while upon designated target ranges or areas.
13. Littering and pollution of waters-It shall be unlawful:
  - a. To discard or deposit refuse of any kind or nature in or upon the property of the township except by placing said refuse in containers provided for such purpose.
  - b. To throw, cast, lay, drop or discharge into or leave in waters administered by or under the jurisdiction of the township any substance, matter or thing, liquid or solid which may or shall result in the pollution of said waters.
14. Skating and coasting-
  - a. No person shall use roller skates within or upon township property except at such times and upon such places as may be designated by Holton Township.
  - b. No person shall within or upon township property coast with hand sleds, bobs, carts, or other vehicles, on wheels or runners, except at such times and upon such places as may be designated by Holton Township.
15. Balloons, airplanes and parachutes-No person shall make any ascent in any balloon or airplane or any descent in or from any balloon or airplane or parachute on any lands or waters administered by or under the jurisdiction of the Township without first having written permission from Holton Township.
16. Public exhibition-No person shall exhibit any machine or show, or any animal, or indulge in any acrobatic exhibitions in or upon any township park property, nor shall any person carry on any performance or do anything whatsoever which shall cause persons to congregate so as to interfere with the proper use of such property by the general public or to obstruct the passage of vehicles or persons without first having obtained written permission from Holton Township.
17. Special permits-No erection, construction or maintenance shall be made above or below ground, across or beneath township park property by any person, firm, or corporation without first having obtained written permission from the township authorizing such installation or construction.
18. Emergency powers-Nothing in these rules shall:
  - a. Prohibit or hinder duly authorized agents of the township or any peace officers from performing their official duties.

- b. Prohibit the township board or the director from establishing emergency rules required to protect the health, welfare and safety of park visitors and to protect park property; including, but not limited to, the right of the township to order all persons off township property, and close all or any portion of said park.

#### **50.007 ENFORCEMENT**

Fines and imprisonment-Any person violating any provision of the foregoing rules shall be deemed guilty of a misdemeanor and upon conviction thereof be fined not more than \$500 and costs of prosecution, or imprisoned in the county jail for a period not exceeding 90 days, or both, for each offense.

#### **50.008 DEFINITIONS**

1. "Township park property" shall mean all lands, waters, and property administered by or under the jurisdiction of the Holton Township Parks and Recreation Commission.
2. "Person" or "persons" shall mean individuals, male or female, singular or plural; firms, corporations, or any group or gathering of individuals.
3. "Camping" means the overnight lodging or sleeping of person or persons on the ground or in any manner, or in any sleeping bag, tent, trailer-tent, trailer coach, vehicle camper, motor vehicle, boat or in any other conveyance erected, parked or placed on the premises or waters within any park or recreation area administered by the Township.
4. "Rules" shall mean the rules adopted by Holton Township applicable to all property administered by or under the jurisdiction of Holton Township and all amendments thereto.

#### **50.009 REPEALER**

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

#### **50.010 EFFECTIVE DATE**

This ordinance shall be published as required by law, to become effective on the date of final publication.

Date: April 13, 2010

Melanie Johnson  
Holton Township Clerk

Introduced: April 13, 2010

Adopted: April 13, 2010

Published: April 28, 2010

Effective: May 28, 2010

### **51.000 MEDICAL MARIHUANA FACILITIES ORDINANCE**

**THE TOWNSHIP OF HOLTON, COUNTY OF MUSKEGON, MICHIGAN HEREBY ORDAINS:**

**51.001 Sec. 1. TITLE**

This ordinance shall be known and may be cited as the Medical Marihuana Facilities Ordinance

**51.002 Sec. 2. PURPOSE**

The purpose of this ordinance is to authorize and regulate State-Licensed Medical Marihuana Facilities Act 281 and to provide penalties for the violation thereof.

**51.003 Sec. 3. DEFINITIONS**

**3.1 Act 281 or the Act.** The Michigan Medical Marihuana Facilities Licensing Act, Act 281 of the Public Acts of Michigan of 2016, as amended.

**3.2 Applicant.** A person who applies or had applied for a State Operating License and a Township Marihuana Facility Permit.

**3.3 Grower.** A licensee that is a commercial entity that cultivates, dries, trims, cures and packages for sale to a processor center.

**3.4 Licensee.** A person holding a State Operating License.

**3.5 Marihuana.** The term as defined in Section 7106 of the Michigan Public Health Code.

**3.6 Marihuana Licensing Board.** The Medical Marihuana Licensing Board established under section 301 of Act 281 of 2016, MCL 333.27301.

**3.7 Marihuana Facility.** A licensee's location and operations under the licensee's State Operating License.

**3.8 Marihuana Plant.** Any plant of the species Cannabis sativa L.

**3.9 Marihuana-Infused Product.** An edible substance or similar product containing marihuana that is intended for human consumption in a manner other than smoke inhalation.

**3.10 Michigan Medical Marihuana Act or MMMA.** The Michigan Medical Marihuana act of 2008, as amended.

**3.11 Person.** An individual, corporation, Limited Liability Company, partnership, limited partnership, limited liability partnership or other legal entity.

**3.12 Processor.** A licensee that is a commercial entity that purchases from a grower and extracts resin from the marihuana or creates a marihuana infused product for sale and transfer in packaged form to a provisioning center.

**3.13 Provisioning Center.** A licensee that is a commercial entity that purchases marihuana from a grower or processor and sells, supplies or provides marihuana to registered, qualifying patients directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property at which marihuana is sold at retail to registered qualifying patients or

registered primary caregivers. A non-commercial location used by a primary caregiver to assist qualifying patients is not a provisioning center for the purposes of this ordinance.

**3.14 Registered Primary Caregiver.** A primary caregiver who has been issued a current registry identification card under the MMMA.

**3.15 Registered Qualifying Patient.** A qualifying patient who has been issued a current registry identification card under the MMMA.

**3.16 Registry Identification Card.** That term as defined in Section 3 of the MMMA.

**3.17 Rules.** The rules that are defined in Section 3 of the MMMA.

**3.18 Safety Compliance Facility.** A licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver and tests it for contaminants and other adverse substances; returns the test results to the party requesting the testing; and may return the tested marihuana to the marihuana facility that submitted the marihuana.

**3.19 Secure Transporter.** A licensee that is a commercial entity that stores marihuana and transports marihuana between marihuana facilities for a fee.

**3.20 State Operating License.** A license that is issued under Act 281 that allows the licensee to operate as one of the following, specified in the license: A grower, processor, secure transporter, provisioning center, or safety compliance facility.

**3.21 Statewide Monitoring System.** The Internet-based, statewide database established and maintained by the State Department of Licensing and Regulatory Affairs under the Michigan Marihuana Tracking Act, Act 282 of the Public Acts of Michigan of 2016, as amended, for the purpose of enabling authorized parties and agencies to confirm or verify relevant information with respect to medical marihuana uses authorized by Act 281.

**3.22 Usable Marihuana.** The dried leaves, flowers, plant resin or extract of the marihuana plant, but does not include the seeds, stalks and roots of the plant.

#### **51.004 Sec. 4. LIABILITY AND INDEMNIFICATION OF TOWNSHIP**

**4.1** By accepting a license issued pursuant to this Ordinance, the licensee waives and releases the Township, its officers, elected officials, and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of medical marihuana facility owners, operators, employees, clients or customers for a violation of State or Federal laws, rules or regulations.

**4.2** By accepting a license issued pursuant to this Ordinance, all licensees agree to indemnify, defend and hold harmless the Township, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising on account of bodily injury, sickness, disease, death, property loss or damage, or any other loss of any kind, including, but not limited to:

- a. Any claim of diminution of property value by a property owner whose property is located in proximity to a licensed marihuana facility;

- b. Any claim arising out of the operation of, or use of a product cultivated, processed, distributed or sold by or from a licensed marihuana facility;
- c. Any alleged injury to business or property by reason of a claimed violation of the federal Racketeer Influence and Corrupt Organizations Act (RICO), 18 U.S.C. §1964(c).

**4.3** By accepting a license issued pursuant to the Ordinance, a licensee agrees to indemnify, defend and hold harmless the Township, its officers elected officials, employees, and insurers, against all liability, claims, penalties, or demands arising on account of any alleged violation of the federal Controlled Substances Act, 21 §801 et seq. Or Article 7 of the Michigan public Health Code, MCL 333.7101 et seq.

**51.005 Sec. 5. NUMBER AND TYPES OF LICENSES**

The number of each of the licenses listed herein shall be determined by resolution of the Township Board.

**5.1** Grower (8 in total):

- a. Class A (up to 500 plants)
- b. Class B (up to 1000 plants)
- c. Class C (up to 1500 plants)

**5.2** Processor: 8 total licenses

**5.3** Secure transporter: 2 total licenses

**5.4** Provisioning center: 3 total licenses

**5.5** Safety compliance facility: 2 total licenses

**5.6** An increase in the number of licenses issued shall be determined by resolution of the Township Board based upon the following:

- a. The number of existing licenses currently issued per area and location;
- b. The distance between existing licensed facilities and/or growing operations;
- c. The distance requirement from existing church, public library or public school K through 12.

**5.7** Once the limit is reached, no further applications will be accepted, and existing applications will be held in the order received when the license becomes available. Applications older than 12 months must be resubmitted with updated information in order to be considered for any license which becomes available. Any license issued must be established and a certificate of occupancy issued within 6 months, or the licensee shall surrender the license if the use is not established within the required time.

**51.006 Sec. 6. LICENSE REQUIRED**

**6.1** No person shall own or operate a Medical Marihuana Facility (“Facility”) in the Township without first applying for and receiving a license from the Township Clerk's office.

**6.2** A facility shall not include a club, cafe', or other design that permits consumption of medical

marihuana in the facility or grow operation.

**6.3** A license is not transferable and shall only apply to the person listed on the license.

**6.4** Licenses shall be valid for a period of one year, from July 1<sup>st</sup> to June 30<sup>th</sup>.

**6.5** Applications to renew a license shall be filed at least 30 days prior to the date of expiration. Such renewal shall be annual and shall be accompanied by an annual license fee of \$5,000.00.

**6.6** Licenses shall be displayed at all times inside the location, in an open and conspicuous place.

**6.7** Every applicant shall pay a nonrefundable application fee of \$1,000.00 at the time of initial application and an additional \$4,000.00 prior to issuance of an initial license.

**6.8** A use purporting to be engaged in the medical use of marihuana prior to enactment of the Michigan Medical Marihuana Facilities Act, prior to being registered with the Michigan Department of Community Health, shall be deemed not a legally established use and not entitled to legal nonconforming status under the provision of this ordinance and under State law.

#### **51.007 Sec. 7. APPLICATION**

Every applicant for a license to maintain, operate or conduct a Medical Marihuana Facility shall file an application under oath with the Township Clerk's office upon a form provided by the Township. The application shall contain the following:

**7.1** The particular license or licenses for which the applicant is applying.

**7.2** An explanation of the services to be provided and a completed medical marihuana checklist upon a form provided by the Township Clerk's office.

**7.3** Name and address of applicant.

**7.4** If applicant is a corporation, LLC, Partnership or Trust, the names and addresses of each officer, director, member, partner or beneficiary.

**7.5** Copy of applicant's driver's license or state identification.

**7.6** Employment and/or business history of the applicant of the past three years.

**7.7** Address of the proposed facility, designating whether the proposed facility will be new construction or renovation of an existing building.

**7.8** Provide the proposed gross revenue to be generated from the facility for the ensuing year. A description of the type of marihuana facility; anticipated or actual number of employees; and the projected or actual gross receipts.

**7.9** The days and hours the facility is proposed to be open or in operation.

**7.10** All criminal convictions, fully disclosing the jurisdiction of the conviction.

**7.11** Whether the applicant applied for a license from the state.

**7.12** Name and address of the registered caregiver and years caregiver has been licensed.



**7.13** Provide the sources and total amount of the applicant's capitalization to operate and maintain the proposed marihuana facility.

**7.14** If the applicant has filed, or been served with a complaint or other notice filed with any public body regarding the delinquency in the payment of, or dispute over the filings concerning the payment of any tax required under Federal, State or Local law.

#### **51.008 Sec. 8. GENERAL REQUIREMENTS**

No license to conduct a Medical Marihuana Facility shall be issued unless the Township confirms that the proposed Facility complies with the following requirements:

**8.1** All Facilities must meet the Township building codes.

**8.2** There shall be no entrance or exit way which provides direct access to another type of business, residence or living quarters.

**8.3** Hours of operation shall be no earlier than 8:00 a.m. and no later than 8:00 p.m., Monday through Saturday and 12:00 p.m. to 8:00 p.m. on Sundays, except for staff necessary at a Medical Marihuana Grow Operation or Processing Operation.

**8.4** Smoking and/or use of medical marihuana is prohibited in any Medical Marihuana Facility.

**8.5** Signs shall comply with the Township's sign ordinance and shall not use the word marijuana/marihuana or any other word or phrase which would refer to marihuana; not any pictures of a leaf or leaves, or any other rendering which would depict marijuana/marihuana may be displayed on a sign or any part of the building. Only one sign per building shall be allowed.

**8.6** A site plan shall be required, showing the proposed building(s) to be used, remodeled or reconstructed, along with the parking, landscaping and lighting plans.

**8.7** Waste disposal, chemical disposal and plant waste disposal plan required.

**8.8** Residential uses within the same structure/building is prohibited.

**8.9** Outdoor storage or discharge of toxic, flammable or hazardous materials into Township sewer or Storm drains is prohibited.

**8.10** A copy of premises liability and causality damage insurance in the amount of One Million Dollars shall be submitted to the Township when the applicant has been notified that they are ready for final approval.

**8.11** That at the time of the application, the applicant's proposed facility is not within 1000 feet of an existing K through 12 public school building.

**8.12** That at the time of the application, the applicant's proposed facility is not within 500 feet of an existing public library or church.

**8.13** Holton Township Fire Chief or Holton Township Official may inspect at any time with a 24 hour notice.

**8.14** Holton Township Fire Chief will inspect all facilities annually.

**51.009 Sec. 9. SPECIFIC REQUIREMENTS**

**9.1 Grower Facility:**

- a. No marihuana shall be cultivated, grown, manufactured or processed in any manner that would emit odors beyond the interior of the structure or which is otherwise discernible to another person. The odor must be prevented by the installation of an operable filtration to exhaust equipment, and odors must otherwise be effectively confined to the interior of the building from which the odor is generated.
- b. Noise shall not be emitted beyond the interior of the structure.
- c. No outside storage.
- d. Security and floor plan for indoor storage of chemicals must be provided.

**9.2 Processor Facility:**

- a. No marihuana shall be cultivated, grown, manufactured or processed in any manner that would emit odors beyond the interior of the structure or which is otherwise discernible to another person. The odor must be prevented by the installation of an operable filtration to an exhaust equipment, and odors must otherwise be effectively confined to the interior of the building from which the odor is generated.
- b. Noise shall not be emitted beyond the interior of the structure.
- c. No outside storage.

**9.3 Provisioning Center:**

- a. The sale or dispensing of alcohol is prohibited.
- b. The applicant and each investor in the provisioning center must not have an interest in a secure transporter or safety compliance facility.
- c. Not allow a physician to conduct a medical examination or issue a medical certification document on the premises for the purpose of obtaining a registry identification card.
- d. No outdoor storage.
- e. Products and/or supplies may not be sampled in or on the premises.
- f. Security and floor plan for indoor storage must be provided.

**9.4 Secure Transporter Facility:**

- a. To be eligible for a secure transporter license, the applicant and each investor with an interest in the secure transporter must not have an interest in a grower, processor, provisioning center, or safety compliance facility and must not be a registered qualifying patient or a registered primary caregiver.
- b. Each driver transporting marihuana must have a Michigan Chauffeur's license.
- c. The secure transporting vehicle shall not bear any marking or identification that it is carrying marihuana infused product.
- d. No outdoor storage.

**9.5 Safety Compliance Facility:**

- a. Shall have a secured laboratory space that cannot be accessed by the general public.
- b. No outdoor storage.
- c. Have appropriate education, training and/or experience to comply with State regulations on testing medical marihuana.

**51.010 Sec. 10. OPERATION AT SAME TIME, LOCATION: GROWER, PROCESSOR AND PROVISIONING CENTER**

**10.1** Any combination of the following types of operating licenses may operate as separate marihuana facilities at the same location: Grower; Processor and Provisioning Center.

**10.2** To operate as a same location, all of the following must apply:

- a. The State has authorized the proposed practitioner at the same location;
- b. The operation at the same location shall not be in violation of any Township ordinances or regulations;

**10.3** Each marihuana facility shall do all of the following:

- a. Apply for and be granted separate State and Township licenses;
- b. Have distinct and identifiable area with designated structures that are contiguous and specific to the operating license;
- c. Have separate entrances and exits, inventory, record keeping and point of sale operations, if applicable;
- d. Post the State and Township licenses on the wall in a distinct area and as provided in this ordinance;
- e. Have the required inspections and permits for each building.

**51.011 Sec. 11. REVIEW, GRANT, REVOKE OR DENIAL OF A LICENSE**

**11.1 Denial:**

- a. The Township shall use information provided on the application as a basis to conduct a thorough background investigation on the applicant.
- b. A false application or denial of a license at the state level is cause to deny a license.
- c. An applicant is ineligible to receive a license if any of the following circumstances exist:
  1. The applicant has been convicted of or released from incarceration for a felony under the laws of this State, any other state, of the United States within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years;
  2. Within the past 5 years the applicant has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state;
- d. The applicant has knowingly submitted an application for a license under this act that contains false information; the applicant fails to demonstrate the applicant's ability to maintain adequate premises liability and casualty insurance for its proposed marihuana facility.

**11.2** The Holton Township Medical Marihuana Facilities License is revocable. The license is a privilege granted by Holton Township and is not a property right. A granted license does not create a property interest. The attempt or act of transfer, sale, or other conveyances of this license is grounds for revocation or suspension of license by Holton Township.

**11.3** Factors considered for granting a license:

- a. In determining whether to grant a license to an applicant, the Township may also consider all of the following:
  1. The integrity, moral character, and reputation; personal and business probity;
  2. The financial ability and experience; and responsibility or means to operate or maintain a marihuana facility of the applicant;
  3. The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance;
  4. The sources and total amount of the applicant's capitalization to operate and maintain the proposed marihuana facility;
  5. Whether the applicant had been indicted for, charged with, arrested for, convicted of, pled guilty to or nolo contendere to, forfeited bail concerning, or had expunged any relevant criminal offense under the laws of any jurisdiction, either felony or misdemeanor, pardoned, or reversed on appeal or otherwise;
  6. Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy within the past 7 years;

7. Whether the applicant has been served with a compliant or other notice filed with any public body regarding payment of any tax required under Federal, State, or Local law that has been delinquent for 1 or more years;
8. Whether the applicant has a history of noncompliance with any regulatory requirements in this state or any other jurisdiction;
9. The security proposed for the facility.
10. Consideration of the effects of the proposed facility and/or grow operation on neighboring properties;
11. Written acknowledgment that the premises, surveillance, and security camera recording system, for protection of the public safety, are subject to inspection for purpose of determining compliance with State and local laws, without a search warrant.

**51.012 Sec. 12. GRANTING OF LICENSE**

The Holton Township Board shall confirm compliance with all requirements and factors in the granting of initial licenses. If the number of applicants meeting the requirements herein exceed the number of available licenses, the Board shall rank the applicants in order, considering the factors outlined in 51.011, and consideration of the site plan proposed for the facility or growing operation; new construction and thereafter reconstruction of buildings shall be ranked higher than those applications proposing existing buildings. Ranking shall be based upon a 0 to 10 scale for each factor with a 0 meaning does not comply and a 10 meaning exceeds compliance.

**51.013 Sec. 13. TOWNSHIP RESPONSIBILITY**

The Township Clerk shall provide the following information to the State Licensing Board within 90 days after the municipality receives notification from the applicant that he or she has applied for a license under this act:

**13.1** A copy of the local ordinance that authorizes the marihuana facility.

**13.2** The Township's failure to provide information to the board shall not be used against the applicant.

**13.3** Information a Township obtains from an applicant related to licensure under this section is exempt from disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246.

**51.014 Sec. 14. SEVERABILITY**

Should any section, subdivision, clause or phrase of this ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole or in part, should not be affected other than the part declared invalid.

**51.015 Sec 15. REPEALER**

To the extent that any other Ordinance, or section or portion thereof, conflicts with or is inconsistent with this Ordinance, that Ordinance, or section or portion thereof, is hereby repealed.

**51.016 Sec. 16. EFFECTIVE DATE; PUBLICATION**

The Township Board has determined that the provisions of this Ordinance shall be published within ten days after its adoption by summary of the Ordinance in a newspaper circulated in the Township, stating the date of the enactment and the effective date of the Ordinance and shall take effect 30 days after the first publication of the Ordinance and that a copy of the Ordinance is available for public use and inspection at the office of the Township Clerk.

Sarah Hippler  
Holton Township Clerk

Introduced: May 9, 2018  
Adopted: May 9, 2018  
Published: June 14, 2018  
Effective: July 13, 2018

Amended: October 8, 2019  
Adopted: October 8, 2019  
Published: October 22, 2019  
Effective: October 23, 2019

**52.000 ORDINANCE TO ALLOW ORVs ON HOLTON TOWNSHIP ROADS**

THE TOWNSHIP OF HOLTON, MUSKEGON COUNTY, MICHIGAN ORDAINS:

**52.001 DEFINITIONS**

As used in this ordinance, the following definitions shall apply:

- a. "Township" means Holton Township, Muskegon County
- b. "County" means Muskegon County.
- c. "Driver's license" means an operator's or chauffeur's license or permit issued to an individual by the secretary of state under chapter III of the Michigan Vehicle code, 1949 PA 300, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- d. "Operate" means to ride in or on, and be in actual physical control of the operations of an ORV.
- e. "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- f. "ATV" means a vehicle with 3 or more wheels that is designed for off-road use, has low- pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 1,000cc gasoline engine or an engine of comparable size using other fuels. Is less then 50 inches wide.
- g. "ORV" means a motor driven off road recreational vehicle capable of cross-country travel with out benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland or other natural terrain. A multi-track or multi-wheel drive vehicles, a motorcycle or related 2-wheel vehicle, a vehicle with 3 or more wheels, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation may be an ORV. An ATV is an ORV. ORV does NOT include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common functions, or a registered aircraft. Included is Utility Task Vehicles also known as UTVs.
- h. "Road" means a county primary road or county local road as described in section 5 of 1951 PA 51, MCL 247.655.
- i. "Road Commission" means Board of County Road Commissioners for the County of Muskegon.
- j. "Safety certificate" means a certificate issued pursuant to the 1994 PA 451 as amended, MCL 324.811129, or a comparable ORV safety certificate issued under the authority of another state or a providence of Canada.
- k. "Visual Supervision" means the direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.
- l. "Maintained Portion" means the roadway and any shoulder of a street, county road or highway.
- m. Utility Task Vehicle (UTV): A vehicle that has side by side seating.

**52.002 OPERATIONS OF ORV'S ON HOLTON TOWNSHIP ROADS**

1. An individual may operate an ORV on roads within Holton Township provided that the ORV is operated only with the flow of traffic, on the far right of the maintained portion, of the road, excluding Maple Island Road/M120 and Holton Road/M120 subject to the following conditions:
  - a. A child who is less than 16 years of age shall not operate a 3 wheeled ATV.
  - b. A child less than 12 years of age shall not operate any ORV on Holton Township Roads.
  - c. A child less than 16 years of age shall have an ORV safety certificate, it must be provide to a peace officer upon demand.
  - d. Not with standing any other provision of this section an operator who is not less than 12 years of age may cross a street, county road or highway by the most direct route.
  - e. A person shall not operate an ORV at a speed greater than 25 miles per hour, or a lower posted speed limit or in a manner that interferes with traffic on the road. Nor shall they operate in a careless manner, having due regard for conditions.
  - f. ORV shall travel in single file, except when being passed or passing safely.
  - g. All ORVs operating on the roads must have lighted headlight and taillights.
  - h. A person shall not operate an ORV during the hours of ½ hour after sunset and ½ hour before sunrise without a working brake light that is brighter than the tail light.
  - i. No person shall operate an ORV with opened container of alcohol. j. A person shall not operate a ORV without a braking system.
  - j. The ORV is equipped with a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.
  - k. ORV must have proper permits to be on Federal designated trails. This ordinance does NOT exempt or bypass the Federal Law regarding trails and ORVs. (Pg. 2 of 3)
  - l. Person or persons shall not ride an ORV on the road in Holton Township without wearing their crash helmets and protective eye wear approved by the United States Department of Transportation.
  - m. ORV's shall conform to noise control act of 1972, 42 USC 4901 to 4918 under the United State Environmental Protection Agency.
  - n. No person shall transport a passenger on an ORV unless the manufacturing standards for that vehicle makes provisions for transporting passengers.
  - o. ORV must be equipped with a spark arrester type United States Forestry Service approved muffler in good working order and in constant operations.
  - p. An ORV shall otherwise be operated in full compliance with all applicable provisions of state law, including, but not limited to, Part 811 of the Natural Resources and Environmental Protection Act, MCL 324.81101, et seq.

### **52.003 NO TOWNSHIP DUTY TO MAINTAIN COUNTY ROADS**

Despite the terms of this Ordinance allowing ORVs to use portions of County Roads, the Township has no duty to, and under takes no duty to, to maintain a road/roads with its boundaries in a condition reasonably safe and convenient for the operation of ORVs.

### **52.004 ENFORCEMENT**



A violation of this ordinance is a civil infraction, and a responsible person shall pay a fine of not more than \$500.00. In addition a court may order the defendant to pay the cost of repairing any damage to the environment, a road, or public property damaged as a result of the violation.

**52.005 EFFECTIVE DATE; PUBLICATION**

This ordinance shall be effective 30 days after its first publication.

Adopted Date: October 8, 2019

Published Date: October 22, 2019

Effective Date: November 21, 2019

**53.00 ORDINANCE TO AMEND MEDICAL MARIHUANA FACILITIES  
ORDINANCE**

An ordinance to amend the Medical Marihuana Facilities Ordinance (Section 51.000 of the Township Code of Ordinances) regarding zoning compliance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith and to provide an effective date.

**THE TOWNSHIP OF HOLTON MUSKEGON COUNTY, MICHIGAN ORDAINS:**

**Sec. 53.001 AMENDMENT OF SECTION 51.005, SUBSECTION 5.7**

Section 51.005, Number and Types of Licenses, of the Township Code of Ordinances (Medical Marihuana Facilities Ordinance) is amended to as follows: Section 51.005, subsection 5.7 is amended to read as follows:

Once the limit is reached, no further applications will be accepted, and existing applications will be held in the order received when the license becomes available. Applications older than 12 months must be resubmitted with updated information in order to be considered for any license which becomes available. Any license issued must be established and a certificate of occupancy issued within 6 months, or the licensee shall surrender the license if the use is not established within the required time.

All other parts of Section 51.005 shall remain unchanged.

**Sec. 53.002 AMENDMENT OF SECTION 51.008**

Section 51.008, General Requirements, of the Township Code of Ordinances (Medical Marihuana Facilities Ordinance) is amended to as follows:

Section 51.008, subsections 8.1 and 8.2 are deleted in their entirety

Section 51.008, subsection 8.3 is retained, but is renumbered as subsection 8.1

Section 51.008, subsection 8.4 is deleted in its entirety

Section 51.008, subsections 8.5, 8.6, 8.7, 8.8, 8.9, 8.10, 8.11, 8.12, 8.13, 8.14, 8.15, 8.16 and 8.17 are retained in their entirety, but are renumbered sequentially

**Sec. 53.003 AMENDMENT OF SECTION 51.012**

Section 51.012, Granting of License, of the Township Code of Ordinances (Medical Marihuana Facilities Ordinance) is amended to read as follows:

The Holton Township Board shall confirm compliance with all requirements and factors in the granting of initial licenses. If the number of applicants meeting the requirements herein exceed the number of available licenses, the Board shall rank the applicants in order, considering the factors outlined in 51.011, and consideration of the site plan proposed for the facility or growing operation; new construction and thereafter reconstruction of buildings shall be ranked higher than those applications proposing existing buildings. Ranking shall be based upon a 0 to 10 scale for each factor with a 0 meaning does not comply and a 10 meaning exceeds compliance.

**Sec. 53.004 AMENDMENT OF SECTION 51.013**

Section 51.013, Township Responsibility, of the Township Code of Ordinances (Medical

Marihuana Facilities Ordinance) is amended as follows:  
Section 51.013, subsections 13.2 and 13.3 are deleted in their entirety  
Section 51.013, subsections 13.4 and 13.5 are retained in their entirety, but are renumbered sequentially  
All other parts of Section 51.013 shall remain unchanged.

**Sec. 53.005 SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable. If any clause, 3 sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing marihuana facilities pursuant to PA 281 of 2016, as may be amended.

**Sec. 53.006 REPEAL**

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

**Sec. 53.007 EFFECTIVE DATE**

This ordinance shall take effect the day after upon publication after adoption.

Sarah Hippler,  
Clerk Holton Township

Adopted Date: October 8, 2019  
Published Date: October 22, 2019  
Effective Date: October 23, 2019

**54.000 RECREATIONAL (ADULT USE) MARIHUANA ESTABLISHMENT  
ORDINANCE**

An ordinance to provide a title for the ordinance; to define words; to authorize the operation of and provide regulations for recreational (adult use) marihuana establishments in Holton Township pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, as may be amended; to provide for an annual fee; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith and to provide an effective date.

THE TOWNSHIP OF HOLTON COUNTY OF MUSKEGON, STATE OF MICHIGAN THE TOWNSHIP OF HOLTON MUSKEGON COUNTY, MICHIGAN ORDAINS:

**Sec. 54.001 TITLE**

This ordinance shall be known as and may be cited as the Holton Township Recreational (Adult Use) Marihuana Establishment Ordinance.

**Sec. 54.002 PURPOSE**

The purpose of the ordinance is to regulate recreational (adult use) marihuana establishments in the Township in order to protect the public health, safety and general welfare of the Township's residents, to provide reasonable regulations regarding Township licensing of recreational (adult use) marihuana establishments, to provide a method to defray administrative costs of such establishments and to coordinate Township regulations and license approval with laws and regulations enacted by the State of Michigan. It is not the intent of this Ordinance to restrict or abrogate the protections for recreational (adult use) marihuana found in the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, et seq., as may be amended.

**Sec. 54.003 DEFINITIONS**

Words used herein shall have the definitions as provided for in the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, et seq., as may be amended.

**Sec. 54.004 RECREATIONAL (ADULT USE) MARIHUANA ESTABLISHMENTS**

The following recreational (adult use) marihuana establishments may be authorized to operate within the Township by the holder of a state operating license, and the Township may issue a Township license for the same, subject to compliance with the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018), as may be amended, the Rules promulgated thereunder and this ordinance:

1. Unlimited growers shall be authorized in the Township, which number may include Class A, B or C growers, in any combination.
2. Unlimited processors shall be authorized in the Township.
3. Not more than three (3) retailers shall be authorized in the Township.
4. Not more than three (3) microbusinesses shall be authorized in the Township.
5. Not more than two (2) secure transporters shall be authorized in the Township.
6. Not more than two (2) safety compliance facilities shall be authorized in the Township.
7. No (zero) special licenses shall be authorized in the Township. A special license shall

include a designated consumption establishment license, an excess marihuana grower license, a marihuana event organizer license and a temporary marihuana event license.

8. No other license types as may be established by the Rules promulgated pursuant Initiated Law 1 of 2018, as amended, shall be authorized in the Township.

#### **Sec. 54.005 RECREATIONAL (ADULT USE) MARIHUANA ESTABLISHMENT LICENSES**

1. All applicants for a Township recreational (adult use) marihuana establishment license shall be pre-qualified by the State of Michigan Marijuana Regulatory Agency and shall provide proof of such approval from the State prior to or upon applying to the Township for a Township license. In the event that an applicant already has a license from the State of Michigan for a medical marihuana facility license, the applicant does not need to obtain prequalification for a recreational (adult use) marihuana establishment license.
2. On and after February 1, 2020 the Township shall accept applications for a Township license to operate a recreational (adult use) marihuana establishment within the Township. Application shall be made on a Township form and must be submitted to the Township Clerk and/or other designee of the Township Board (hereinafter referred to as the "Clerk."). Once the Clerk receives a complete application including the initial annual recreational (adult use) marihuana establishment fee, the application shall be time and date stamped. All complete applications received on or after February 1, 2020 shall be considered for conditional authorization and/or Township licensure. In the event that more applications are submitted to the Clerk than the number of recreational (adult use) marihuana establishments authorized for Township licensure by this ordinance, the applications shall be considered by the Township Board pursuant to the evaluation criteria contained in Section 54.06 of this Ordinance. The Township Board shall consider an application for a recreational (adult use) marihuana establishment licensure within 30 days of the date of receipt of a complete application. Once the Township Board has determined which applications will be authorized for Township licensure (per Section 54.05 herein), any additional complete applications shall be held in abeyance for future conditional licensure. Any applicant waiting for future conditional licensure may withdraw their application by written notice to the Clerk at any time and may receive a partial refund of the initial annual medical marihuana fee submitted.
3. If a conditionally licensed applicant is denied a state operating license, then such conditional license will be canceled by the Clerk and the conditional license shall be available to the next applicant for the specific type of recreational (adult use) marihuana establishment license in order of rankings, per the evaluation criteria in Section 54.06.
4. A conditionally licensed applicant shall receive a license from the Township to operate the recreational (adult use) marihuana establishment within the Township upon the applicant providing the Clerk proof that the applicant has received a state operating license for the recreational (adult use) marihuana facility in the Township and the applicant has met all other requirements of this ordinance for the operation of a recreational (adult use) marihuana establishment.
5. If a conditionally licensed applicant fails to obtain a license from the Township within one year from the date of conditional license, then such conditional license shall be canceled by the Clerk and the conditional license shall be available to the next applicant for the specific type of recreational (adult use) marihuana establishment license in order

of rankings, per the evaluation criteria in Section 54.06. The Township Board shall have the authority to extend the deadline to obtain a Township license for up to an additional six months on written request of the applicant, within thirty days prior to cancellation, upon the reasonable discretion of the Township Board making a finding of good cause for the extension.

6. A licensee shall not operate a recreational (adult use) marijuana establishment at any location in the Township other than the address provided in the application to the Township.

#### **Sec. 54.006 LICENSE EVALUATION CRITERIA**

In the event that the Township receives more applications for recreational (adult use) marijuana establishment licenses than are authorized by this ordinance, the Township Board shall review all applications to determine which of the applications are best suited to operate such establishment in the Township in compliance with Initiated Law 1 of 2018, as amended. In making such analysis, the Township Board shall consider the following criteria:

1. The applicant's experience in operating other licensed marijuana businesses in Holton Township.
2. The applicant's experience in operating other licensed marijuana businesses in Michigan.
3. If the applicant is a resident of Holton Township.
4. If the applicant is a resident of Muskegon County, Michigan.
5. The applicant's general business management experience.
6. The applicant's financial ability and/or means to operate or maintain a marijuana establishment.
7. Whether the applicant has been delinquent in paying taxes to Holton Township, Muskegon County and/or any other public entity in the past 10 years.
8. Whether the applicant has a history of non-compliance with any regulatory requirements in Holton Township, Muskegon County or elsewhere within the State of Michigan.

#### **Sec. 54.007 GENERAL REGULATIONS REGARDING AUTHORIZED RECREATIONAL (ADULT USE) MARIHUANA ESTABLISHMENTS**

1. A licensed recreational (adult use) marijuana establishment shall only be operated within the Township by the holder of a State operating license issued pursuant to Michigan Regulation and Taxation of Marijuana Act (Initiated Law 1 of 2018), as may be amended and the Rules promulgated thereunder. The facility shall only be operated as long as the State operating license and Township license both remain in effect.
2. Prior to operating a licensed recreational (adult use) marijuana establishment within the Township pursuant to a State operating license, the facility must comply with all applicable regulations, ordinances and codes.
3. Prior to operating an authorized recreational (adult use) marijuana establishment within the Township pursuant to a State operating license, the establishment must comply with all Township construction and building ordinances, including any applicable zoning ordinance regulations (if any), all other Township ordinances specifically regulating recreational (adult use) marijuana establishments and generally applicable Township police power ordinances. The establishment shall only be operated as long as it remains in compliance with all such ordinances now in force or which hereinafter may be

established or amended.

4. If at any time a licensed recreational (adult use) marihuana establishment violates this ordinance the Township Board may request that the state revoke or refrain from renewing the establishment's State operating license. Once such State operating license is revoked or fails to be renewed, the Clerk shall cancel the Township license and the license shall be available to the next applicant for the specific type of recreational (adult use) marihuana establishment license in order of rankings, per the evaluation criteria in Section 54.06.
5. A recreational (adult use) marihuana establishment shall not be located within 1,000 feet of an existing public or private school providing education in kindergarten or any grades 1 – 12.
6. A recreational (adult use) marihuana establishment may co-locate with a medical marihuana facility, as authorized by Section 6, subsection 5 of the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018).
7. A recreational (adult use) marihuana establishment shall prevent smoke, odors, debris, dust, noise, lights, glare, heat, other emissions or discharge from interfering with the reasonable and comfortable use and enjoyment of another's property. Whether smoke, odors, debris, dust, noise, lights, glare, heat, other emissions or discharge interfere with the reasonable and comfortable use and enjoyment of property shall be measured against the objective standards of a reasonable person of normal sensitivity.
8. A recreational (adult use) marihuana grower, processor and retailer may operate from a single facility, as authorized by Section 6, subsection 5 of the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018).
9. A marihuana retailer establishment shall only be open to the public between the hours of 9:00 a.m. and 9:00 p.m.
10. A microbusiness retailer component shall only be open to the public between the hours of 9:00 a.m. and 9:00 p.m.
11. All signage and advertising shall comply with Holton Township, Muskegon County and/or MDOT regulations.
12. A licensed recreational (adult use) marihuana establishment shall consent to inspection of the facility by Township officials and/or by the County Sheriff's Department, upon reasonable notice, to verify compliance with this ordinance.
13. The Township expressly reserves the right to amend or repeal this ordinance in any way including, but not limited to, complete elimination of or reduction in the type and/or number of licenses for recreational (adult use) marihuana establishments authorized to operate within the Township.

**Sec. 54.008 ANNUAL RECREATIONAL (ADULT USE) MARIHUANA ESTABLISHMENT FEE**

There is hereby established an annual nonrefundable Township recreational (adult use) marihuana establishment fee in the amount of \$5,000, for each licensed recreational (adult use) marihuana establishment within the Township, to help defray administrative and enforcement costs associated therewith. An initial annual recreational (adult use) marihuana establishment fee of \$5,000 shall be payable at the time of application for Township authorization and thereafter the same amount shall be payable each year by the anniversary of the date of Township licensure to operate the recreational (adult use) marihuana establishment.

## **Sec. 54.009 NONRENEWAL, SUSPENSION, REVOCATION, APPEALS**

1. It is hereby expressly declared that nothing in this ordinance be held or construed to give or grant to any authorized recreational (adult use) marihuana establishment a vested right, privilege or permit to continued licensure from the Township for operations within the Township.
2. Each license is exclusive to the licensee and a licensee or any other person must apply to and receive Township Board approval before a license is transferred, sold or purchased. The attempted transfer, sale or other conveyance of an interest in a license without prior approval of the Township Board is grounds for suspension or revocation of the license or for other appropriate sanction.
3. The Township Board, after notice and hearing, may suspend, revoke or refuse to renew a license for any of the following reasons:
  - a) The applicant or licensee, or his/her agent, manager or employee, has violated, does not meet or has failed to comply with any of the terms, requirements, conditions or provisions of this ordinance or with any applicable state or local law or regulation;
  - b) The recreational (adult use) marihuana establishment has operated in a manner that adversely affects the public health, safety and welfare.
4. Evidence to support a finding for nonrenewal, suspension or revocation of a license may include, without limitation, a continuing pattern of conduct of drug related criminal complaints within the premises of the recreational (adult use) marihuana establishment or in the immediate surrounding area or an ongoing nuisance condition emanating from or caused by a recreational (adult use) marihuana establishment.
5. An applicant may appeal any Township decision regarding licensure, nonrenewal, suspension or revocation of a license to the full Township Board, upon written request. An applicant requesting such appeal shall submit the request in writing to the Township Clerk, which request shall include reasons for the appeal. The Township Board shall, within a reasonable time thereafter, provide notice to the applicant of the time and date of the Township Board meeting at which the appeal will be heard. At such Township Board meeting, the applicant will have the opportunity to present his/her case supporting their appeal request.

## **Sec. 54.010 VIOLATIONS AND PENALTIES**

1. Any person who disobeys neglects or refuses to comply with any provision of this ordinance or who causes allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
2. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$500 for subsequent offenses, in the discretion of the Court. For purposes of this section, "subsequent offenses" means a violation of the provisions of this ordinance committed by the same person within 12 months of a previous violation of the same provision of this ordinance for which said person admitted responsibility or was adjudicated to be responsible. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and



indirect, which the Township incurs in connection with the municipal civil infraction. This section is not intended to conflict with the penalty provisions in the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, et seq., as may be amended.

3. Each day during which any violation continues shall be deemed a separate offense.
4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
5. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person (s) as designated by the Township Board from time to time.

**Sec. 54.011 SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing recreational (adult use) marihuana establishments pursuant to the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018).

**Sec. 54.012 REPEAL**

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

**Sec. 54.013 EFFECTIVE DATE**

This ordinance shall take effect thirty days after publication after adoption. Sarah Hippler, Clerk  
Holton Township

Introduced: December 10, 2019

Adopted: December 10, 2019

Published: December 17, 2019

Effective: January 16, 2020