

red = new text

Article I: Short Title and Purpose

Section 1.3 Authority

Pg. I-1

This Ordinance is ordained and enacted into law pursuant to the provisions and in accordance with the State of Michigan, ~~Township Zoning Act, Act 184 of the Public Acts of 1943, as amended,~~ **Zoning Enabling Act, Act 110 of the Public Acts of 2006,** as amended.

Article II: INTERPRETATION OF WORDING AND DEFINITIONS

Section 2.1

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CHILD CARE FACILITY: A facility for the care of children (persons under 18 years of age), as licensed and regulated by the state under Act 116 of the Public Acts of 1973, being M.C.L.A. §§ 722.111 through 722.128 as amended, and the associated rules promulgated by the State Department of Human Services. Such organizations shall be further defined as follows:

1. **FAMILY CHILD CARE HOME:** A private home operated by a Michigan licensed day care operator in which at least one (1) but less than (7) seven children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent and/or legal guardian, not including children related to an adult member of the resident family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.
2. **GROUP CHILD CARE HOME:** A private home operated by a Michigan licensed day care operator in which more than six (6) but not more than twelve (12) children are given care and supervision for periods less than twenty-four (24) hours a day, unattended by a parent and/or legal guardian, not including children related to an adult member of the resident family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.
3. **CHILD CARE CENTER:** A facility, other than a private residence, receiving one (1) or more preschool or school-age children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center.
4. **PRIVATE HOME:** A private residence in which the registered facility operator permanently resides as a member of the household.

STATE LICENSED RESIDENTIAL FACILITY: A structure constructed for residential purposes that is licensed by the State pursuant to Act No. 218 of the Public Acts of 1979 (Adult Foster Care Licensing Act), as amended, being Sections 400.701 to 400.737 of the Michigan Compiled Laws, or Act No. 116 of the Public Acts of 1973 (Child Care Organizations), as amended, being Sections 722.111 to 722.128 of the Michigan Compiled Laws, which provides resident services or care for six (6) or fewer individuals under twenty-four (24) hour supervision for persons in need of that supervision or care.

Article V: Agricultural District

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Section 5.2 PERMITTED USES

~~K. Foster care, group care, or day care homes for six (6) or less residents~~

K. State-Licensed Residential Facilities for six (6) or less residents or Family Child Care Homes

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Section 5.3 USES ALLOWED BY SPECIAL APPROVAL USE PERMIT

~~J. Foster care, group care, or day care homes for seven (7) or more residents.~~

J. State-Licensed Residential Facilities for seven (7) or more residents or Group Child Care Homes.

Article VI: Residential District – R-1

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Section 6.2 PERMITTED USES

~~D. Foster care, group care, or day care homes for six (6) or less residents~~

D. State-Licensed Residential Facilities for six (6) or less residents or Family Child Care Homes

Pg. VI-2

Section 5.3 USES ALLOWED BY SPECIAL APPROVAL USE PERMIT

~~L. Nurseries for children~~

L. Child Care Centers

~~O. Foster care, group care, or day care homes for seven (7) or more residents.~~

O. State-Licensed Residential Facilities for seven (7) or more residents or Group Child Care Homes.

Article XIII: SITE DEVELOPMENT REQUIREMENTS

Section 13.1

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U. Group Child Care Homes/Child Care Center:

A Special Approval Use Permit in the case of a Group Child Care home and a standard Zoning Permit in the case of a Child Care Center will be issued if the group day care home or child care center meets all of the following conditions:

1. Is not located closer than fifteen hundred 1,500 feet to any of the following:
 - a. Another licensed group day care home.
 - b. An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218.
 - c. A facility offering substance abuse treatment and rehabilitation service or seven (7) or more people licensed under Article 6 of the public health code, 1978 PA 368.
 - d. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
2. Has at least four hundred (400) square feet of fenced outdoor space.
3. Maintains the property consistent with the visible characteristics of the neighborhood.
4. Does not exceed sixteen (16) hours of operation during a twenty-four (24)-hour period.

Article XIV: Special Approval Use Permits, Site Plan Requirements, and Site Plan Review Standards

Section 14.3 NOTICE REQUIREMENTS AND REVIEW BY ZONING BOARD

Page XIV-1

Replace entire Section 14.3 with the following text:

- A. Upon receipt of an application for a Special Approval Use Permit, a public hearing shall be held by the Zoning Board pursuant to the public notice requirements of Section 19.8.
- B. Following such hearing, the Township Zoning Board shall either grant, deny or reconsider a permit for such Special Approval Use and shall state its reasons for its decision on the matter. The decision of the Zoning Board shall be incorporated into a statement of findings and conclusions relative to the Special Approval Use which specifies the basis for the decision and any condition(s) imposed. All conditions, limitations and requirements upon which any such permit is granted shall be specified in detail by said board in its decision and shall be filed with the Zoning Administrator of the Township.
- C. Any conditions, limitations or requirements upon which approval is based shall be reasonable and designed to
 1. protect the natural resources, the health, safety and welfare and the social and economic well-being of the owners and occupants of the land in question, of the area adjacent thereto and of the community as a whole;

2. constitute a valid exercise of the police power and be related to the purposes which are affected by the proposed use or activity;
3. be consistent with the intent and purpose of the zoning ordinance;
4. insure compatibility with the adjacent uses of land and the natural environment;
5. insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.

Section 14.9: SITE PLAN APPROVAL PROCESS

A. Pre-application Conference: The Zoning Administrator, Zoning Board Chair and/or Zoning Board shall have the authority to conduct a pre-application meeting with the applicant/developer to assist them in understanding the site plan review process, and other Ordinance requirements; and to provide insight as to what portions of their proposed development may be of special concern to the Zoning Board.

B. Application Submittal Procedures:

- a. Six (6) copies of the proposed site plan, including all required additional or related information, shall be presented to the Zoning Administrator by the petitioner or property owner or his designated agent at least thirty (30) days prior to the Zoning Board meeting at which the site plan will be considered. The Zoning Administrator will review the materials submitted to assure all information required by the Ordinance has been provided. If the application is incomplete the Zoning Administrator will send a notice with a detailed list of all deficiencies to the applicant. If the site plan, including all required additional or related information, is determined to be complete, the Zoning Administrator shall cause the submittal to be placed on the agenda of the next regular Zoning Board meeting.
- b. The Zoning Board may distribute the site plan to the following agencies or any other agency deemed appropriate for comment prior to consideration for approval.
 - a. The Montmorency County Soil Erosion and Sedimentation Control Officer;
 - b. The Montmorency County Drain Commissioner;
 - c. The Montmorency County Road Commission and, if appropriate, the Michigan Department of Transportation;
 - d. District Health Department;
 - e. Local fire and ambulance service providers.
3. Application fees shall be paid when the application and site plan are submitted.
4. Where the applicant is dependent upon the grant of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals shall be

necessary before the site plan approval can be granted, or the site plan may be approved subject to favorable action by the Zoning Board of Appeals.

5. The applicant or his/her representative shall be present at the scheduled review. If the applicant fails to provide representation, the review will be addressed at the next scheduled Zoning Board meeting.
6. The Zoning Board may request the assistance of a qualified professional planner, engineer, attorney, or other professional in the site plan review process if deemed necessary or advisable.
7. The Zoning Board may seek the recommendations of the Fire Chief, the Montmorency County Road Commission, the District Health Department, the Michigan Department of Natural Resources and Environment or other agencies as appropriate, where applicable.

C. Approval of Site Plan:

1. Within sixty (60) days of the site plan application being found complete, the Zoning Board shall act to approve, approve with modifications and/or conditions, or disapprove the site plan in writing with reasons.
2. If approved by the Zoning Board, three (3) copies of the site plan shall be signed and dated by both the applicant and Zoning Administrator or Zoning Board Chair. One signed and dated site plan shall be provided to the applicant; one shall be retained by the Zoning Administrator as part of the Township's permanent zoning file, and one copy shall be made part of the Zoning Board's permanent record of proceedings on the site plan.

D. Conformity to Approved Site Plan Required: Following approval of a site plan by the Zoning Board, the applicant shall construct the site plan improvements in complete conformity with the approved site plan. Failure to do so shall be deemed a violation of this Ordinance.

E. Amendment of Approved Site Plan:

Amendment of an approved site plan shall be permitted only under the following circumstances:

1. The owner of property for which a site plan has been approved shall notify the Zoning Administrator of any desired change to the approved site plan. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
 - a. Reduction of the size of any building and/or sign.
 - b. Movement of buildings and/or signs by no more than ten (10) feet.

- c. Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
 - d. Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
 - e. Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - f. Changes that will preserve the natural features of the site without changing the basic site layout.
 - g. Changes related to item a) through f) above, required or requested by Hillman Township, Montmorency County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval.
 - h. All amendments to a site plan approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the Applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the zoning administrator to sign and date all approved amendments.
2. An amendment to an approved site plan that cannot be processed by the Zoning Administrator under **subsection (E.1)** above shall be processed in the same manner as the original site plan application.

F. Expiration of Site Plan:

- a. The site plan shall expire unless construction of an approved site plan improvement has begun within 365 days of approval. Thirty (30) days prior to expiration of an approved final site plan, an applicant may make application to the Zoning Board for a one-year extension of the site plan at no fee. The Zoning Board shall grant the requested extension for an additional one year if it finds good cause for the extension.
- b. Any subsequent re-submittal of a site plan due to expiration which has not been granted an extension shall be processed as a new request with new fees.

G. Conditional Approvals: The Zoning Board may impose reasonable conditions with the approval of a final site plan.

H. Site Plan Waiver: The Zoning Administrator may waive site plan review requirements and, in the case of a use that would normally require Zoning Board approval, the stated review and approval procedures by the Zoning Board in any of the following cases where he or she determines that the submission of a site plan

and adherence to the stated review and approval procedures by the Zoning Board would serve no useful purpose:

- a. Accessory structures for a non-residential use
- b. A change in principal use where such change would not result in an increase in impervious surface, additional off-street parking, access or other external site characteristics, or create a violation of this Ordinance.

Section 14.10: STANDARDS FOR GRANTING SITE PLAN APPROVAL

The Zoning Board shall approve, or approve with conditions, an application for a site plan only upon a finding that the proposed site plan complies with all applicable provisions of this Ordinance and the standards listed below unless the Zoning Board waives a particular standard upon a finding that the standard is not applicable to the proposed development under consideration and the waiver of that standard will not be significantly detrimental to surrounding property or to the intent of the Ordinance. The Zoning Board's decision shall be in writing and shall include findings of fact, based on evidence presented on each standard.

- A. **Public Welfare and Adjoining Properties:** The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall take into account the size of the property, uses on the adjoining property and the relationship and size of buildings to the site. 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. **Topography and Natural Landscape:** All elements of the site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of elements that respect existing features of the site in relation to topography. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in smooth natural appearing slopes as opposed to abrupt changes in grade between the project and adjacent areas.
- C. **Drainage:** On site drainage shall be required. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties. Provisions shall be made to accommodate stormwater and to prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system.
- D. **Privacy:** The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

- E. **Emergency Vehicle Access:** All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.
- F. **Vehicular and Pedestrian Circulation:** Safe, convenient, uncontested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. The pedestrian circulation system shall be as insulated as completely as reasonably possible from the vehicular circulation system. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry. Where possible, shared commercial access drives shall be encouraged.
- G. **Access:** Every structure or dwelling unit shall have access to a public street, private road, walkway or other area dedicated to common use.
- H. **Outdoor Storage:** All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant materials no less than six feet in height.
- I. **Exterior Lighting:** Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not interfere with the vision of motorists along adjacent streets. Lighting of building or structures shall be minimized to reduce light pollution.
- J. **Compliance with other Statutes and Regulations:** Site plans shall conform to all applicable requirements of local, state and federal statutes, and approval may be conditioned on the applicant receiving necessary state and federal permits before the actual zoning permit is granted.

ARTICLE XIX: ADMINISTRATION AND ENFORCEMENT

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Section 19.8: PUBLIC NOTIFICATION

All applications for development approval requiring a public hearing, including Special Approval Use Permit applications, Planned Unit Development applications, Zoning Board of Appeals applications, and Zoning Ordinance text or map amendments, shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, and the provisions of this Section with regard to public notification.

A. PUBLISHED NOTICE: When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Township Clerk shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the Hillman Township and mailed or delivered as provided in this Section.

B. CONTENT: All mail, personal and newspaper notices for public hearings shall:

1. Describe the nature of the request: Identify whether the request is for a rezoning, text amendment, Special Approval Land Use, planned unit development, variance, appeal, Ordinance interpretation or other purpose.
2. Location: Indicate the property that is subject to 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, identification of the nearest cross street, or the inclusion of a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an Ordinance interpretation not involving a specific property.
3. When and where the request will be considered: indicate the date, time and place of the public hearing(s).
4. Written comments: Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.

C. PERSONAL AND MAILED NOTICE

1. General: When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:
 - a. The owners of the property for which approval is being considered and the applicant, if different than the owner(s) of the property.

- b. Except for rezoning requests involving eleven (11) or more adjacent properties or an Ordinance interpretation request that does not involve a specific property, notice shall be given to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or the occupant is located within Hillman Township. If the name of the occupant is not known, the term “occupant” may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) 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.
 - c. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to subsection E.
 - d. Other governmental units or infrastructure agencies within one (1) mile of the property involved.
2. **Notice Deemed Given:** Notice shall be deemed given when personally delivered or by its deposit in the United States mail, first class, property addressed, postage paid. Planning staff shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

D. TIMING OF NOTICE: Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:

For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or Ordinance interpretation: not less than fifteen (15) days before the date the application will be considered for approval.

E. REGISTRATION TO RECEIVE NOTICE BY MAIL

- 1. **GENERAL:** pursuant to subsection C.1.c, Any neighborhood organization, public utility company, railroad or any other person may register with the Township Clerk to receive written notice of all applications for development approval in the Township or written notice of all applications for development approval within the zoning district in which they are located. The Township Clerk shall be responsible for providing this notification, as established by the Township Board.
- 2. **REQUIREMENTS:** The requesting party must provide the Township Clerk information on an official form to ensure notification can be made. All registered persons must register annually to continue to receive notification pursuant to this section.

ARTICLE XX: BOARD OF APPEALS

Pg. XX-1

Section 20.2 BOARD MEMBERSHIP

F. An employee or contractor of the Township may not serve as a member of the Board of Appeals.

Section 20.4: TERMS OF OFFICE

Members of the Board of Appeals may be removed by the Township Board for ~~non-performance of duty or misconduct~~ **misfeasance, malfeasance, or nonfeasance** in office, upon written charges and after a public hearing. A member shall disqualify himself from any vote in which he has a conflict of interest. Failure to do so shall constitute ~~misconduct~~ **malfeasance** in office.

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Section 20.5 REQUIRED HEARINGS

The Board of Appeals shall hear and decide all matters properly referred to the Board, or upon which the Board is required to act, under any ordinance adopted pursuant to **Public Act 110 of 2006** ~~484 or 1943~~, as amended.

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Section 20.9 **PROCEDURE AND APPROVAL PERIODS**

- A. An appeal to the Zoning Board of Appeals may be taken by a person aggrieved or by an officer, department, board or bureau of Michigan or Hillman Township.
- B. A variance in the Zoning Ordinance may be applied for and granted under section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and as provided under the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.
- C. The appellant shall file with the Board of Appeals, on blanks or forms to be furnished by the Zoning Administrator, a notice of appeal specifying the grounds for the appeal.
- D. The Zoning Administrator shall immediately transmit to the Zoning Board of Appeals all papers constituting the record of the appealed action.
- E. The applicant is required to submit four (4) copies of surveys, plans and data or other information deemed reasonably necessary for making any informed decision on his or her appeal.
- F. Following receipt of a written request for a variance, an interpretation of the Zoning Ordinance, or an appeal of an administrative decision, the Zoning Board of Appeals shall fix a reasonable time for the hearing of the request and give notice pursuant to §19.8.

- G. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.
- H. A member of the Zoning Board of Appeals who is also a member of the Zoning Board or the Township Board shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Zoning Board or the Township Board. However, the member may consider and vote on other unrelated matters involving the same property.
- I. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit. The final decision of such appeal shall be in the form of a resolution reversing, modifying or affirming, wholly or partly, the decision or determination appealed from. Reasons for the decision must be stated.
- J. The ZBA may impose such reasonable conditions or limitations in granting a variance as deemed necessary to protect the character of the area.
- K. No order of the Board of Appeals permitting the erection of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit. No order of the Board of Appeals permitting the use of a building or premises shall be valid for a period longer than one (1) year unless such use is established within the said period; provided, however, that such order shall continue in force and effect, if a permit for said erection or alteration has been obtained, and said work is started and proceeds to completion in accordance with said permit.

ARTICLE XXI: INTERPRETATION, SEVERABILITY, PENALTIES, AMENDMENTS, RIGHTS AND REMEDIES, GENERAL RESPONSIBILITY, ENACTMENT, AND EFFECTIVE DATE

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Section 21.4 AMENDMENT TO THIS ORDINANCE

- A. The Township Board of Trustees is authorized and empowered to cause this ordinance or accompanying zoning map to be amended, supplemented or changed pursuant to the authority and according to the procedures set forth in ~~Act 184 of the Public Acts of 1943~~, **Public Act 110 of 2006**, as amended. Proposals for amendments may be initiated by the Township Board, the Zoning Board, or by petition of one (1) or more property owners in Hillman Township affected by such proposed amendment.
- B. **Rezoning Standards:** The Zoning Board shall review and apply the following standards and factors in the consideration of any rezoning request.
 - 1. Is the proposed rezoning consistent with the current Master Plan?

2. Are all of the allowable uses in the proposed district reasonably consistent with surrounding uses?
3. Will there be an adverse physical impact on surrounding properties?
4. Will there be an adverse effect on property values in the adjacent area?
5. Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?
6. Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing regulations?
7. Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?
8. Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?
9. Is the site served by adequate public facilities or is the petitioner able to provide them?
10. Are there sites nearby already properly zoned that can be used for the intended purposes?

Section 21.5 PROCESSING OF AMENDMENT

The procedure for amending this ordinance or accompanying zoning map shall be as follows:

- A. Each petition shall be submitted to the Zoning Administrator accompanied by the proper fee, and then referred to the Zoning Board at the next regularly scheduled meeting or at a special meeting called for such purpose.
- B. ~~The Zoning Board shall conduct a public hearing, the notice of which shall be given by two (2) publications in a newspaper of general local circulation. Said newspaper notice shall be published the first (1st) time not more than thirty (30) days nor less than twenty (20) days prior to the proposed hearing, and the second (2nd) newspaper notice not more than eight (8) days prior to the hearing date.~~ **A public hearing shall be held by the Zoning Board pursuant to the public notice requirements set forth in Section 19.8 of this Ordinance.**
- C. ~~If the property involved adjoins another unit of government, the proper officials are to be given notice of the public hearing at a reasonable time before the public hearing date and shall also be given an opportunity to comment on any coordinated action or review deemed necessary.~~
- D. ~~In rezoning matters, notices of public hearing shall be mailed by first class mail to property owners, or as reflected on the Township's tax roll, or tenants of property~~

~~which lies within three hundred (300) feet of property to be rezoned. The notice shall be made not less than eight (8) days before the hearing.~~

- C. Following the public hearing, the Zoning Board shall submit the proposed amendment including any zoning map changes to the Montmorency County Planning Commission. In the absence of a County Planning Commission, the amendment shall be submitted to the County Board of Commissioners. If the recommendation of the County Zoning Planning Commission or County Board of Commissioners has not been received within thirty (30) days after the receipt of the Ordinance by the County, it shall be conclusively presumed that the County has waived its right for review.
- D. After receiving comments or a waiver of right to review from the County Planning Commission or County Board of Commissioners, or upon the expiration of thirty (30) days after receipt of the Ordinance amendment by the County, the Zoning Board shall transmit its recommendations to the Township Board. The Zoning Board shall submit a final report/recommendation to the Township Board along with a summary of the comments received at the public hearing.
- E. The Township Board may grant a public hearing if it considers it necessary and shall grant a hearing on the proposed amendment to any property owner who has filed a written request for a hearing prior to the regular meeting at which the proposed amendment is to be considered. Notice of such hearing shall be published using the procedures in Section 19.8.
- F. The Township Board may refer any proposed amendments back to the Zoning Board for consideration and comment within a time specified by the Township Board.
- G. No petition for rezoning, which has been disapproved by the Township Board, shall be submitted for a period of one (1) year from the date of disapproval except as permitted by the Township Board after becoming aware of new evidence which may result in approval upon resubmittal.
- H. Once adopted by the Township Board, amendments to this Ordinance shall be filed with the Township Clerk, and one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. Any amendments to this Ordinance shall take effect eight (8) business days after publication or at a later date as may be specified by the Township Board at the time of adoption.

WIND TURBINES

ARTICLE XIII: SITE DEVELOPMENT REQUIREMENTS

Section 13.1

Wind Energy Systems

This section includes regulations for small on-site wind energy conversion systems (residential, commercial, and agricultural) and commercial wind energy systems. Anemometer Towers may be constructed by commercial enterprises to evaluate wind conditions prior to the construction of commercial wind turbines or other devices. Most wind energy conversion systems currently are wind turbines.

The following site development standards shall apply to all wind energy system and anemometer tower (AT) installations in the Township.

A. **Small On-Site Wind Energy Systems:** A wind energy conversion system which is intended to primarily serve the needs of the property upon which it is located shall be considered an accessory structure and shall be permitted by right.

1. Small On-Site Wind Energy Systems must be professionally designed and installed.
2. **Tower Height:** The tower height shall be limited to one-hundred (100) feet. In the case of roof-mounted wind energy systems, the height of the tower shall be measured from the ground.
3. **Blade Clearance:** There shall be a minimum vertical blade tip clearance from the ground of twenty (20) feet.
4. **Guy Wires:** If the small wind energy system is supported by guy wires, such wires shall be visible to a height of at least six (6) feet above the ground.
5. **Setbacks:** Each small wind energy system shall be set back from an adjoining lot line or a public or private road right-of-way a distance equal to the total height of the wind turbine generator. The Zoning Board may reduce the setback if the neighboring property is under the same ownership or based on other factors such as topography specific to the site. No part of the wind turbine generator, including guy wire anchors, may extend closer to the property line than the required setback for the district in which the unit is located.
 - (a) **Waterfront Property:** Wind energy systems are permitted within the waterfront setback but still must meet the side yard setback equal to the total height of the wind turbine generator.
6. **Visual Impact:** Wind turbine towers, rotating blades or mechanisms, and building surfaces shall be a non-reflective, non-obtrusive neutral color. The appearance of turbines, towers, and buildings shall be maintained throughout the life of the system.

7. **Noise:** Small wind energy systems shall not cause a sound pressure level in excess of fifty-five (55) dB(A) or in excess of five (5) dBA above the background noise, whichever is greater, as measured at the nearest property line. This level may be exceeded during short-term events such as utility outages and severe wind storms.
8. **Vibration:** Small wind energy systems shall not cause vibrations through the ground which are perceptible beyond the property line of the parcel on which it is located.
9. **Reception Interference:** Small wind energy systems shall not cause interference with television, microwave, navigational or radio reception to neighboring areas.
10. **Shadow Flicker:** Small wind energy systems shall not cause shadow flicker upon any structure on a neighboring property.
11. **Potential Ice Throw:** The potential ice throw or ice shedding for the wind turbine generator shall not cross the property lines of the site nor impinge on any right-of-way or overhead utility line.
12. **Safety:** A small on-site wind energy system shall have an automatic system to prevent uncontrolled rotation.
13. **Other Regulations:** On-site use wind energy systems shall comply with all applicable State construction and electrical codes, Federal Aviation Administration requirements, Michigan Aeronautics Commission requirements, the Michigan Tall Structures Act (P.A. 259 of 1959, as amended), and the Michigan Public Service Commission and Federal Energy Regulatory Commission standards.

B. Commercial Wind Energy Facilities and Anemometer Towers: Anemometer Towers and wind energy facilities consisting of one (1) or more wind turbines whose main purpose is to supply electricity to off-site customers shall be allowed as a Special Land Use and shall adhere to the following requirements in addition to the Site Plan Review and Special Approval Use requirements contained in this Ordinance.

1. **Principal or Accessory Use:** A wind energy facility or anemometer tower may be considered either a principal or an accessory use. A different existing use or an existing structure on the same parcel shall not preclude the installation of a wind energy facility or a part of such facility on such parcel. Wind energy facilities that are constructed and installed in accordance with the provisions of this Article shall not be deemed to constitute the expansion of a nonconforming use or structure.
2. **Sufficient Wind Resources:** The proposed site shall have documented annual wind resources sufficient for the operation of the proposed wind turbine generator; provided, however, this standard shall not apply to an anemometer tower. No wind turbine generator shall be approved without submission of a wind

resource study documenting wind resources on the site over a minimum of one year. Said study shall indicate the long term commercial economic viability of the project. The Township may retain the services of an independent, recognized expert to review the results of the wind resource study prior to acting on the application for special approval.

3. **Minimum Site Area:** The minimum site area for a wind turbine generator or an anemometer tower erected prior to a wind turbine generator shall be as necessary to meet required wind energy setbacks and any other standards of this Article.
4. **Setbacks:** Each proposed wind turbine generator or anemometer tower shall meet the following applicable setback requirements:
 - a. **Setback from Property Line:** Each wind turbine generator shall be set back from any adjoining lot line a distance equal to the total height of the wind turbine generator including the top of the blade in its vertical position. The Zoning Board may reduce this setback to no less than one hundred (100) feet; provided the adjoining property is owned or leased by the applicant or an easement is obtained. If the adjoining property that is owned or leased by the applicant includes more than one (1) parcel, the properties may be considered in combination in determining setback relief. The amount of setback relief approved by the Zoning Board will be based on data provided by the applicant and prepared by a qualified professional. Such data shall satisfy the Zoning Board that any potential blade and ice throw will not cross the property line and that sound levels will not exceed fifty (55) decibels on the dB(A) scale at the property line from the proposed setback. Data provided shall be specific to the proposed tower in the proposed location taking into consideration prevailing winds, topography, existing vegetation, and other relevant factors.
 - b. **Setback from Road:** In addition to the above, a wind turbine generator shall, in all cases, be set back from a public or private road right-of-way a minimum distance equal to the height of the wind turbine generator total height as defined in the Ordinance.
 - c. **Setback from Structures:** Each wind turbine generator shall be setback from the nearest inhabited structure a distance not less than one and one-half (1 ½) times the total height of the wind turbine generator.
 - d. **Setback from Communication and Power Lines:** Each wind turbine shall be set back from the nearest above-ground public electric power line or telephone line a distance of no less than four hundred (400) feet or one and one-half (1 ½) times the total tower height, whichever is greater, determined from the existing power or communications lines.
 - e. **Building Setbacks:** Setbacks for buildings accessory to a wind turbine generator shall conform to the setbacks of the district.
5. **Maximum Height:** The maximum wind turbine generator height or the height of an anemometer tower erected prior to the wind turbine generator shall be

determined on a case by case basis. The applicant shall demonstrate compliance with the Michigan Tall Structures Act (P.A. 259 of 1959, as amended), FAA guidelines, and Michigan Aeronautics Commission guidelines as part of the approval process.

The Zoning Board may approve an increased height for a wind turbine generator tower or an anemometer tower if either of the following conditions is met:

a. The increased height will result in the preservation of a substantial stand of trees, existing land forms or structures that would otherwise be removed to increase wind velocity.

or

b. The increased height is the minimum necessary to achieve a reasonable rate of return on the operation of the wind turbine generator given the documented wind speeds and other site conditions. A reasonable rate of return is not equivalent to maximizing economic return to the operator, as determined by the Zoning Board or a qualified professional hired by the Township.

In subsections (1) and (2) above, the increased height shall not result in increased intensity of lighting of the tower due to FAA (Federal Aviation Administration) or MAC (Michigan Aeronautics Commission) requirements.

6. **Tower Separation:** Wind turbine separation distance shall be based on 1) industry standards, 2) manufacturer recommendation, and 3) the characteristics (prevailing wind, topography, etc.) of the particular site location. At a minimum, there shall be a separation between the towers of not less than three (3) times the turbine rotor diameter. Documents shall be submitted by the developer/manufacturer confirming specifications tower separation.
7. **Minimum Ground Clearance:** The lowest point of the arc created by rotating wind vanes or blades on a wind turbine generator shall be no less than twenty (20) feet.
8. **Maximum Noise Levels:** The sound pressure level generated by the wind energy system shall not exceed fifty-five (55) dB(A) measured at neighboring property lines. If the ambient sound pressure level exceeds fifty-five (55) dB(A), the standard shall be ambient plus five (5) dB(A).
9. **Maximum Vibrations:** Any proposed wind turbine generator shall not produce vibrations through the ground humanly perceptible beyond the parcel on which it is located.
10. **Potential Ice Throw:** The potential ice throw or ice shedding for the wind turbine generator shall not cross the property lines of the site nor impinge on any right-of-way or overhead utility line.
11. **Signal Interference:** No wind turbine generator shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antennas for radio, television, navigation, wireless phone or other personal communication systems would produce electromagnetic interference with signal

transmission or reception. No wind turbine generator shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference with the link's operation.

12. Visual Impact, Lighting, Power Lines:

- a. Wind turbines shall be mounted on tubular towers, painted a non-reflective, non-obtrusive neutral color. The appearance of turbines, towers, and buildings shall be maintained throughout the life of the wind energy facility pursuant to industry standards (i.e. condition of exterior paint, signs, landscaping). A certified registered engineer and authorized factory representative shall certify that the construction and installation of the wind energy facility meets or exceeds the manufacturer's construction and installation standards.
- b. The design of the wind energy facility's buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening, and landscaping that will blend facility components with the natural setting and the environment existing at the time of installation.
- c. Wind turbine generators shall not be artificially lighted, except to the extent required by the FAA or the MAC or other applicable authority, or otherwise necessary for the reasonable safety and security thereof. If lighting is required, the lighting alternatives and design chosen:
 - (1) Shall be the intensity required under State or federal regulations.
 - (2) Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by State or federal regulations. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to State or federal regulations.
 - (3) May be a red top light that does not pulsate or blink.
 - (4) All tower lighting required by State or federal regulations shall be shielded to the extent possible to reduce glare and visibility from the ground.
- d. Wind turbines shall not be used to display any advertising except the reasonable identification of the manufacturer or operator of the wind energy facility.
- e. The electrical collection system shall be placed underground within the interior of each parcel at a depth designed to accommodate the existing agricultural land to the maximum extent practicable. The collection system may be placed overhead adjacent to State and County roadways, near substations or points of interconnection to the electric grid or in other areas as necessary.
- f. Wind energy power transmission lines located within Wind Energy Resource Zones for which an Expedited Siting Certificate is issued by order of the

Michigan Public Service Commission under P.A. 295 of 2008 are exempt from local zoning regulations.

13. Shadow Flicker:

- a. The wind turbine generator shall be designed in such a manner as to minimize shadow flicker on a roadway. The wind turbine generator shall be designed in such a manner as to prevent shadow flicker on any existing structures located off the property on which the wind turbine generator is located. If necessary to prevent shadow flicker from crossing occupied structures, the wind turbine generator may be programmed to stop rotating during times when the wind turbine generator shadow crosses these structures. The wind turbine generator operator may obtain written agreements which allow shadow flicker to cross an occupied structure.
- b. The Zoning Board may require the applicant to conduct an analysis of potential shadow flicker at occupied structures if it deems such an analysis necessary. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify problem areas where shadow flicker may affect the occupants of the structures and describe measures that shall be taken to eliminate or mitigate the problems.

14. Safety:

- a. All collection system wiring shall comply with all applicable safety and stray voltage standards.
- b. Wind turbine towers shall not be climbable shall not be climbable up to fifteen (15) feet above the ground surface.
- c. All access doors to wind turbine towers and electrical equipment shall be lockable.
- d. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet above the ground.
- e. Appropriate warning signs shall be placed on wind turbine towers, electrical equipment, and facility entrances.
- f. All wind turbine generators shall be equipped with controls to control the rotational speed of the blades within design limits for the specific wind turbine generator.

15. State or Federal Requirements: Any proposed wind turbine generator anemometer tower shall meet or exceed any standards and regulations of the Federal Aviation Administration (FAA), Michigan Aeronautics Commission (MAC), the Michigan Public Service Commission, National Electric Safety Code, Federal Energy Regulatory Commission, and any other agency of the state or

federal government with the authority to regulate wind turbine generators or other tall structures in effect at the time the Special Land Use approval is approved.

16. Hazard Planning: An application for a wind turbine generator shall be accompanied by a hazard prevention plan. Such plan shall contain:

- a. Certification that the electrical wiring between turbines and between turbines and the utility right-of-way does not pose a fire hazard.
- b. Location of landscaping to be designed to avoid spread of fire from any source on the turbine; such preventative measures may address the types and locations of vegetation below the turbine and on the site.
- c. A listing of any hazardous fluids that may be used on site shall be provided, including Material Data Safety Sheets (MDSS).
- d. Certification that the turbine has been designed to contain any hazardous fluids shall be provided.
- e. A statement certifying that the turbine shall be routinely inspected to ensure that no fluids are released from the turbine.

17. Approvals: All required approvals from other local, regional, state or federal agencies must be obtained prior to approval of a site plan. In the case where site plan approval is a requirement for other local, regional, state, or federal agency approval, evidence of such shall be submitted with the site plan.

18. Removal of Wind Turbine Generators

- a. The applicant shall submit a decommissioning plan. The plan shall include:
 - (1) The anticipated life of the project.
 - (2) The estimated decommissioning costs in current dollars. Such costs shall not include credit for salvageable value of any materials.
 - (3) The method of ensuring that funds will be available for decommissioning and restoration.
 - (4) The anticipated manner in which the project will be decommissioned and the site restored.
- b. Any wind turbine generator or anemometer tower that is inoperational for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such wind turbine generator or anemometer tower shall remove the same within one hundred eighty (180) days of abandonment. Failure to remove an abandoned wind turbine generator or anemometer tower within the one hundred eighty (180) day period provided in this subsection shall be grounds for the Township to remove the wind turbine generator or anemometer tower at the owner's expense.
- c. In addition to removing the wind turbine generator, or anemometer tower, the owner shall restore the site of the wind turbine generator or anemometer tower to its original condition prior to location of the wind turbine generator or

anemometer tower, subject to reasonable wear and tear. Any foundation associated with a wind generator or anemometer tower shall be removed to a minimum depth of five (5) feet below the final grade and site vegetation shall be restored.

- d. The Zoning Board may require the owner of the wind turbine generator to deposit a performance guarantee in an amount equal to the estimated costs associated with the removal of the wind turbine generator or anemometer tower and all associated equipment and accessory structures and restoration of the site to a reusable condition which shall include the removal of all underground structures to a depth of five (5) feet below the natural ground level at that location. The amount of the performance guarantee shall be reviewed every five (5) years. The amount of the performance guarantee shall be increased based on an inflation rate equal to the average of the previous ten (10) years Consumer Price Index.

19. **Equipment Replacement:** Major components of the wind turbine generator may be replaced without a modification of the Special Use permit provided all regulations contained herein are adhered to.

Wind Energy Definitions:

Ambient: Ambient is defined as the sound pressure level exceeded ninety (90) percent of the time.

Anemometer: A device used to measure wind speed.

dB(A): The sound pressure levels in decibels. Refers to the “a” weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.

Decibel: The unit of measure used to express the magnitude of sound pressure and sound intensity.

Hub Height: The distance measured from the ground level to the center of the turbine hub.

Small On-Site Wind Energy Systems: A wind energy conversion system consisting of a wind turbine (horizontal or vertical axis), a tower, and associated control or conversion electronics which has a rated capacity of not more than one hundred (100) kW and which is intended to primarily reduce on-site consumption of utility power.

Shadow Flicker: Alternating changes in light intensity caused by the moving blade of a wind turbine casting shadows on the ground and stationary objects, such as window of a dwelling.

Sound Pressure: Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

Sound Pressure Level: The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

Wind Energy Facility (Commercial): A power generating facility consisting of one or more wind turbines under common ownership or operation control, and includes substations, MET towers, cables/wires, and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers.

Wind Turbine Generator: A wind energy conversion system which converts wind energy into electrical energy. Includes a tower, pylon, or other structures including all accessory facilities

Wind Turbine Generator Total Height: The distance between the ground and the highest point of the wind turbine generator including the top of the blade in its vertical position.