



MONTMORENCY TOWNSHIP ZONING ORDINANCE AMENDMENTS Adopted 8-11-09 Effective 8-27-09

NEW TEXT IS IN RED

CURRENT ZONING ORDINANCE TEXT IS IN BLACK

Article 1: Title

(1st line) An ordinance enacted pursuant to the authority contained in Act 184 of the Public Acts of Michigan for 1943 as amended, known as the "Township Zoning Act" **Public Act 110 of 2006, as amended** for the establishment of...

(16th line) ...authority to said board in addition to that expressly provided in said Public Act 184 **PA 110 of 2006, as amended**; to provide...

Article 1: Preamble

In accordance with the authority and intent of Act 184 of the Public Acts of 1943 **Public Act 110 of 2006**, as amended, in...

Article 10: Special Exception Uses

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Special Exception Use Procedure:

#2: *(delete)*

~~The Zoning Board Secretary shall, upon receipt of the application in proper form, schedule and hold a hearing upon the request preceded by notification to the applicant, the owner of the property proposed for consideration and the owners and occupants of all property within 300 feet of the boundary of the property proposed for consideration as shown by the latest tax assessment roll. If the name of an occupant is not known, the term "occupant" may be used in the notice. The notice shall be mailed or personally delivered and published in a local newspaper between five (5) and fifteen (15) days prior to the hearing. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the 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. All notices shall describe the nature of the special land use request, indicate the property which is the subject of the special land use request, state when and where the special land use request will be considered, and indicate when and where written comments will be received concerning the request.~~

#2: *(add)*

The Zoning Administrator will review the materials submitted to assure all information required by the Ordinance has been provided. If the application, 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 Planning & Zoning Commission meeting as a public hearing after notice has been provided in accordance with Article 35.

(New article)

Article 35: Public Notice Requirements: Applies to Special Approval Use Permits, Special Exception Uses, Zoning Board of Appeals cases, text amendments, and rezoning requests.

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006, and the other provisions of this Article with regard to public notification.

1. **Published Notice:** When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Planning Commission Secretary shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Montmorency Township and mailed or delivered as provided in this Section.
2. **Content:** All mail, personal and newspaper notices for public hearings shall:
 - a. Describe the nature of the request: Identify whether the request is for a rezoning, text amendment, Special Approval Use, Special Exception Use, variance, appeal, ordinance interpretation or other purpose.
 - b. 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.
 - c. When and where the request will be considered: indicate the date, time and place of the public hearing(s).
 - d. 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.
 - e. Disabled access: Information concerning how disabled access will be accommodated if the meeting facility is not disabled accessible.
3. **Personal and Mailed Notice**
 - a. **General:** When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:
 - aa. The owners of the property for which approval is being considered and the applicant, if different than the owner(s) of the property.

- bb. 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 Montmorency 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.
 - cc. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to **subsection 5 (below)**.
 - dd. Other governmental units or infrastructure agencies within one (1) mile of the property involved.
 - b. **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. The Planning Commission Secretary 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.
4. **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:
- a. 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.
5. **Registration to Receive Notice by Mail:** Any neighborhood organization, public utility company, railroad or any other person may register with the Planning Commission Secretary to receive written notice of all applications for development approval pursuant to **subsection (3)(a)(cc) above** or written notice of all applications for development approval within the zoning district in which they are located. The Planning Commission Secretary shall be responsible for providing this notification, as established by the Township Board. The requesting party must provide the Planning Commission Secretary 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.

ADD DEFINITIONS:

Article 2

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:

- A. **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.
- B. **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.
- C. **Child Care Center or Day 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 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.
- D. **Private Home:** A private residence in which the registered facility operator permanently resides as a member of the household.

Planning Commission: The body appointed by the Municipal Council under the provisions of Public Act 33 of 2008, the "Michigan Planning Enabling Act" as amended. Refers to the Montmorency Township Planning Commission. (All references to "Zoning Board" changed to "Planning Commission")

State-Licensed Residential Facility (Adult Foster Care): 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.

~~**Zoning Board:** A board established by the general legislative body of a municipality for the~~

purpose of developing, implementing and administering a zoning ordinance. In township government, the township board is responsible for appointing members to the zoning board. Michigan law requires that a zoning board be comprised of 4 to 7 members; however, by resolution the township board may establish a limitation of 7 members on the zoning board. Zoning board members serve staggered terms which are established in the enabling legislation and such terms are established in relation to whether said board is comprised of 4 or more than 4 members. No elected official or employee of the township board shall serve simultaneously as a member of the zoning board. Michigan law also makes it possible for a township planning commission (comprised of 5 to 9 members) to serve as its zoning board as long as its members and their terms are in accordance with the enabling legislation; the combined planning and zoning body is called a township planning and zoning commission. These two appointed boards are often consolidated in rural communities to enhance coordination of related responsibilities and to achieve greater economy. In Montmorency Township, the Township Board has established a Planning and Zoning Commission and any references within this ordinance to zoning board and planning and zoning commission shall be synonymous or interchangeable, with zoning board being used to economize on wording.

Article 4: "AG" Agricultural District

Permitted Uses

- (ADD) #7. Family Child Care Homes
- #8. State Licensed Residential Facilities

Special Exception Use Uses

- (ADD) #10. Group Child Care Homes

Article 5: "R-1" Residential District

Permitted Uses

- (ADD) #9. Family Child Care Homes
- #10. State Licensed Residential Facilities

Special Exception Use Uses

- (CHANGE) #17. Group Child Care Homes
- (ADD) #12 Child Care Center

Article 6: "RR-1" Resort Residential District

Permitted Uses

- (ADD) #15. Family Child Care Homes
- #16. State Licensed Residential Facilities

Special Exception Use Uses

- (ADD) #10. Group Child Care Homes

Article 7: "RM-1" Residential Mobile Home Park

Permitted Uses

- (ADD) #4. Family Child Care Homes
- #5. State Licensed Residential Facilities

Special Exception Use Uses

- (ADD) #6. Group Child Care Homes

Article 10

Special Exception Uses

Pg. 30 Special Exception Use Standards

~~With this in mind, such Special Exception Use Uses are not permitted to be engaged in within the particular zone in which they are listed unless and until the Zoning Board, in its absolute discretion, is satisfied that the same, under the conditions, controls, limitations, circumstances and safeguards proposed therefore, and imposed by said board, would be compatible with the other uses expressly permitted within said district, with the natural environment and the capacities of public services and facilities affected by the land use; would not be detrimental or injurious thereto; would not be detrimental or injurious based on evidence to the use or development of adjacent properties, to the occupants thereof, or to the general neighborhood; would promote the public health, safety, morals and general welfare of the community; would encourage the use of lands in accordance with their character and adaptability; and that the standards required by the Board for the allowance of such Special Exception Use Use can and will, in its judgment, be met at all times by the applicants.~~

The Planning Commission shall approve, or approve with conditions, an application for a Special Exception Use only upon finding that the proposed Special Exception Use complies with all the following standards:

1. **Allowed Special Exception Use:** The property subject to the application is located in a zoning district in which the proposed Special Exception Use is allowed.
2. **Compatibility with Adjacent Uses:** The proposed Special Exception Use shall be designed, constructed, operated and maintained to be compatible and appropriate in appearance with existing or planned uses and the intended character of the area and the surrounding land. In determining whether a Special Exception Use will be compatible and not create a significant detrimental impact, as compared to the impacts of permitted uses, consideration shall be given to the degree of impact the Special Exception Use may have on adjacent property, as compared with the expected value to the community. The following types of impacts shall be considered:
 - a. Use activities, processes, materials, equipment, or conditions of operation;
 - b. Vehicular circulation and parking areas;
 - c. Outdoor activity, storage and work areas;
 - d. Hours of operation;

- e. Production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light;
 - f. Impacts on adjacent property values; and
 - g. The relative ease by which the impacts above will be mitigated.
3. **Public Services:**
- a. The proposed Special Exception Use will not place demands on fire, police, or other public resources in excess of current capacity.
 - b. The proposed Special Exception Use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.
4. **Economic Well-Being of the Community:** The proposed Special Exception Use shall not be detrimental to the economic well-being of the surrounding residents, businesses, landowners, and the community as a whole.
5. **Compatibility with Natural Environment:** The proposed Special Exception Use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the township or the natural environment as a whole.
6. **Impact of Traffic on Street System:** The location and design of the proposed Special Exception Use shall minimize the negative impact on the road system in consideration of items such as vehicle trip generation (i.e. volume), types of traffic, access location and design, circulation and parking design, street and bridge capacity, traffic operations at proposed access points, and traffic operations at nearby intersections and access points. The proposed Special Exception Use shall not cause traffic congestion, conflict or movement in greater proportion to that normally prevailing for the use in the particular zoning district.
7. **Non-Detrimental Standards:** The proposed Special Exception Use shall not involve uses, activities, processes, materials, equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of noxious or offensive production of noise, smoke, fumes, glare, vibration, odor or traffic.

Special Exception Use Standards

Pg. 33 (after Solid Waste Transfer Facilities)

ADD

Group Child Care Homes

A Special Exception Use permit will be issued if the group child care home 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 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.
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Special Exception Procedure

- 3. Following such hearing, such board shall either grant, deny or reconsider a permit for such Special Exception Use and shall state its reasons for its decision on the matter. **The decision of the Planning Commission shall be incorporated into a statement of findings and conclusions relative to the Special Exception 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. Any conditions, limitations or requirements upon which approval is based shall be reasonable and designed to 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; constitute a valid exercise of the police power and be related to the purposes which are affected by the proposed use or activity; be consistent with the intent and purpose of the zoning ordinance; designed to insure compatibility with the adjacent uses of land and the natural environment; and designed to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
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Article 10: Site Plan Review and Special Exceptions

1. Site Plan Review: Circumstances Requiring a Site Plan:

- a. All new uses and/or structures except a) single-family or two-family dwelling units; b) accessory structures to single-family or two-family dwelling units; and c) agricultural buildings.
- b. Expansion or renovation of an existing use, other than single-family or two-family dwelling units and accessory structures thereof and agricultural buildings, which increases the existing floor space more than twenty five (25) percent.
- c. Changes of use for an existing structure or lot except for the circumstances listed in **subsection 12b (below)**.
- d. Any use requiring off-street parking, except residential uses.
- e. Other uses as required by this Ordinance.

2. Pre-application Conference:

The Zoning Administrator, Planning Commission Chair and/or Planning Commission 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 Planning Commission. This conference is not mandatory, but is recommended for small and large projects alike. For large projects, a pre-application conference should be held several months in advance of the desired start of construction. Such an advance conference will allow the applicant/developer time to prepare the needed information for the Planning Commission to make a proper review.

3. Site Plan Data Required:

Each site plan submitted shall contain the following information unless specifically waived, in whole or in part, by the Township Planning Commission. The Planning Commission can waive any or all of the below site plan requirements, when it finds those requirements are not applicable to the proposed development.

- a. Name and address of the property owner(s), developer(s), and designer(s), and their interest in said properties.
- b. The parcel's legal description.
- c. The date, a north arrow, the scale and name of the individual or firm responsible for preparing said plan. The scale must be at least one (1) inch = fifty (50) feet for parcels under three (3) acres and not less than one (1) inch = one hundred (100) feet for parcels of three (3) acres or more.
- d. A certified survey of the property prepared and sealed by a professional licensed surveyor, showing, at a minimum, the boundary lines of the property, all dimensions and legal description.

- e. Boundary dimensions of environmental features such as forests, water bodies, wetlands, floodplains, high risk erosion areas, slopes over twenty-five (25) percent, drainage and other similar features.
- f. The location, dimension, and height of all existing structures and all proposed uses or structures on the site, including principal building(s), accessory structures, walkways, signs, exterior lighting, proposed drives, neighboring drives, curb cuts, vehicular circulation features, size and number of parking spaces, service lanes (show the dimensions of a typical parking stall and parking lot), loading and unloading areas, common use areas, recreational areas and facilities, and any impervious surface. An elevation drawing of the proposed building(s) is required in order to review the proposed building bulk and to verify height.
- g. Area of the property subject to be covered by structures (not available as open space).
- h. The location and width of all abutting rights-of-way, easements, utility lines, and public open spaces within or bordering the subject project.
- i. The location and identification of all existing structures, lighting, signs, ingress drives, roads, and parking within a two hundred (200) foot radius of the site, including road names.
- j. The front yard dimensions of the nearest building on both sides of the proposed structure.
- k. The existing zoning district in which the site is located and the zoning of adjacent parcels.
- l. The location of all existing and proposed landscaping as well as all existing and proposed fences or walls.
- m. The location, size and slope of all surface and subsurface drainage facilities.
- n. Location and status of any floor drains in structures on the site. The point of discharge for all drains and pipes shall be specified on the site plan.
- o. Description and location of any existing or proposed outdoor storage facilities (above ground and below ground storage).
- p. Description and location of on-site wastewater treatment and disposal systems.
- q. Location of existing and proposed private drinking water wells, monitoring wells, test wells, irrigation wells, or wells used for industrial processes.
- r. The location of snow storage areas.
- s. The topography of the existing and finished site shall be shown by contours or spot elevations. Where the existing slope on any part of the site is ten percent (10%) or greater, contours shall be shown at height intervals of two (2) feet or less.

- t. Generalized soil analysis data, which may include data prepared by the Montmorency County Soil Conservation District regarding the soils and their adaptability to the use. More detailed information may be required where the Planning Commission determines that the site and use warrant a more critical review of soils.
- u. All site plans shall comply with the terms of the Montmorency County Soil Erosion and Sedimentation Control Ordinance and Stormwater Ordinance. It shall be the applicant's responsibility to provide documentation of compliance with these County Ordinances.
- v. Anticipated hours of operation for the proposed use. The Planning Commission may impose reasonable limits to hours of operation as a condition of site plan approval when warranted to assure compatibility with surrounding land uses.
- w. Site plans for residential projects (multiple family developments and manufactured home parks) shall include the following additional information:
 - aa. Minimum floor area of dwelling units.
 - bb. Total number of units proposed.
 - cc. Number of bedrooms per unit in multiple family developments.
 - dd. Areas to be used for open space and recreation.
- x. Impact Statement. The statement shall address itself to the following as applicable to the type of use:
 - aa. A complete description of the proposed development including: areas of the site; the number of lots or units; and the number and characteristics of the population impact such as density, as it relates to elderly persons, school children, tourists, family size, income, and related information as applicable.
 - bb. Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, volume of water consumption related to ground water reserves, change in traffic volume on adjacent streets and other factors that may apply to the particular development.
 - cc. Statements relative to the impact of the proposed development on soil erosion, shoreline protection, wildlife habitat, air pollution, water pollution (ground and surface), noise and the scale of development in terms of the surrounding environment.

4. Application Submittal Procedures:

- a. Ten (10) 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 Planning Commission 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 Planning Commission meeting.

- b. The Planning Commission 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 to cover the estimated review costs as determined by the Township Board 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 Planning Commission meeting.

5. Standards for Granting Site Plan Approval:

The Planning Commission 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 Planning Commission 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 Planning Commission'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 state and federal statutes and the Montmorency Township Master Plan, and approval may be conditioned on the applicant receiving necessary state and federal permits before the actual zoning permit is granted.

6. Approval of Site Plan:

- a. Within sixty (60) days of the site plan application being found complete, the Planning Commission shall act to approve, approve with modifications and/or conditions, or disapprove the site plan in writing with reasons. The decision of the Planning Commission shall be incorporated into a statement of findings and conclusions 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. Any conditions, limitations or requirements upon which approval is based shall be reasonable and designed to 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; constitute a valid exercise of the police power and be related to the purposes which are affected by the proposed use or activity; be consistent with the intent and purpose of the zoning ordinance; designed to insure compatibility with the adjacent uses of land and the natural environment; and designed to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
 - b. If the Planning Commission does not act on the site plan, and put its action in writing within the prescribed time, the site plan shall be conclusively presumed to have been approved. If the proprietor and the Zoning Administrator or Commission mutually agree, the time limit may be extended.
 - c. If approved by the Planning Commission, three (3) copies of the site plan shall be signed and dated by both the applicant and Zoning Administrator or Planning Commission 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 Planning Commission's permanent record of proceedings on the site plan.
7. **Conformity to Approved Site Plan Required.** Following approval of a site plan by the Planning Commission, 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.
8. **Amendment of Approved Site Plan:**
Amendment of an approved site plan shall be permitted only under the following circumstances:

- a. 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:
 - aa. Reduction of the size of any building and/or sign.
 - bb. Movement of buildings and/or signs by no more than ten (10) feet.
 - cc. Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
 - dd. 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.
 - ee. Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - ff. Changes that will preserve the natural features of the site without changing the basic site layout.
 - gg. Changes related to item a) through f) above, required or requested by Montmorency 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.
 - hh. 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.
- b. An amendment to an approved site plan that cannot be processed by the Zoning Administrator under **subsection (8a)** above shall be processed in the same manner as the original site plan application.

9. 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 days prior to expiration of an approved final site plan, an applicant may make application to the Planning Commission for a one-year extension of the site plan at no fee. The Planning Commission 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.
10. **Conditional Approvals:** The Planning Commission may impose reasonable conditions with the approval of a final site plan.
11. **Performance Guarantee:** The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a final site plan.
12. **Site Plan Waiver:** The Zoning Administrator may waive site plan review requirements and, in the case of a use that would normally require Planning Commission approval, the stated review and approval procedures by the Planning Commission 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 Planning Commission 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.
13. **Special Exceptions:**
Insert the remainder of the current text from Article 10 on Special Exceptions here.

Wind Energy Standards

(Add the following to Article 2: Definitions)

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: 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 power. Includes a tower, pylon, or other structure, including all accessory facilities, upon which any, all, or some combination of the following are mounted:

1. A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind into electrical or mechanical energy.
2. A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy-producing device.
3. A generator, alternator, or other device used to convert the energy created by the rotation of the rotor into electrical or mechanical energy.

Wind Turbine Generator Total Height:

Horizontal Axis Wind Turbine Rotors: The distance between the ground and the highest point of the wind turbine generator, plus the length by which the rotor wind vanes or blades mounted on a horizontal axis wind turbine rotor exceeds the height of the wind turbine generator.

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

(Add to Article 10: Special Exceptions after the section on Solid Waste Transfer Facilities)

Wind Energy Facilities

1. Wind Energy Facilities: Purpose and Goals

- a. The purpose of this section is to establish guidelines for siting wind turbines and wind energy facilities. This section's goals are as follows:

- aa. To promote the safe, effective, and efficient use of wind turbines and wind energy systems installed to reduce on-site consumption of electricity supplied by utility companies.
 - bb. To lessen potential adverse impacts that wind turbines and wind energy facilities may have on residential areas and land uses through careful design, siting, noise limitations, and innovative camouflaging techniques.
 - cc. To avoid potential damage to adjacent properties from turbine failure through proper siting of turbine structures.
2. **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. The following site development standards shall apply:
- a. **Design & Installation:** All wind turbine generators (ground and roof-mounted) shall comply with the currently adopted County building code. The installation of the wind turbine shall meet manufacturer's specifications.
 - b. **Blade Clearance:** There shall be a minimum vertical blade tip clearance from the ground of twenty (20) feet.
 - c. **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.
 - d. **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 Planning Commission 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 or waterfront than the required setback for the district in which the unit is located.
 - e. **Setback from Structures:** Each wind turbine generator shall be setback from the nearest inhabited structure, which is not under the same ownership or on the same property, a distance equal to the total height of the wind turbine generator. Each wind turbine generator shall be setback a minimum of ten (10) feet from a structure under the same ownership or on the same property as the wind turbine generator.
 - f. **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.
 - g. **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.

- h. **Reception Interference:** Small wind energy systems shall not cause interference with television, microwave, navigational or radio reception to neighboring areas.
 - i. **Shadow Flicker:** Small wind energy systems shall not cause shadow flicker upon any structure on a neighboring property. The property owner of a wind turbine shall make reasonable efforts to minimize shadow flicker to any occupied building on nearby properties.
 - j. **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.
 - k. **Safety:** A small on-site wind energy system shall have an automatic system to prevent uncontrolled rotation.
 - l. **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.
3. **Commercial Wind Energy Facilities:** 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 Exception Use and shall adhere to the following requirements in addition to the requirements contained in Article pertaining to Site Plan Review and Special Exception Uses.

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. 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. **Design & Installation**

All wind turbine generators shall comply with the currently adopted County building code. An engineering analysis of the tower showing compliance with the currently adopted building code and certified by a licensed professional engineer shall also be submitted.

4. 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.

5. 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 Planning Commission 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 Planning Commission will be based on data provided by the applicant and prepared by a qualified professional. Such data shall satisfy the Planning Commission 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.

6. Maximum Height

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.

7. 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.

8. 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.

9. 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).

10. Maximum Vibrations

Any proposed wind turbine generator shall not produce vibrations through the ground humanly perceptible beyond the parcel on which it is located.

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. 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.

13. 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:
 - aa. Shall be the intensity required under State or federal regulations.
 - bb. 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.
 - cc. May be a red top light that does not pulsate or blink.
 - dd. 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.

14. 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 Planning Commission 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.

15. Safety:

- a. All collection system wiring shall comply with all applicable safety and stray voltage standards.
- b. Wind turbine towers 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 locked.
- 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.
- g. Wind turbine generators shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

16. 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.

17. 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.

18. 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.

19. Removal of Wind Turbine Generators

- a. The applicant shall submit a decommissioning plan. The plan shall include:
 - aa. The anticipated life of the project.
 - bb. The estimated decommissioning costs in current dollars. Such costs shall not include credit for salvageable value of any materials.
 - cc. The method of ensuring that funds will be available for decommissioning and restoration.
 - dd. 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 Planning Commission shall 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.

20. 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.

Pg. 57 Sexually-Oriented Businesses (Standards and Additional Requirements)

- 3. No sexually oriented business shall be established on a parcel which is within one-thousand (1,000) feet of any parcel zoned Agricultural, Residential, Resort Residential or Residential Mobile Home Park.

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Article 8: C-1 Commercial District

Special Exception Uses:

(ADD) #13 Sexually-Oriented Businesses

The filing of the written notice of intent to contest the Zoning Board of Appeals' denial of a special use permit shall not in any way affect the validity of such denial. ~~but such denial shall be deemed invalid and the special use permit application or site plan automatically approved if,~~

within five (5) business days of the filing of township's petition, a show cause hearing has not been scheduled.

Article 26: Zoning Board of Appeals

Current Text: A Township Zoning Board of Appeals shall be appointed by the Township Board as prescribed by statute with all powers and authority prescribed by law or delegated to it under specific provisions of the ordinance. The Board of Appeals shall consist of five members; one member shall be a member of the Township Planning and Zoning Commission. An elected officer of the Township shall not serve as chairman of said board and an employee or contractor of the Township Board may not serve as a member. One member may be a member of the Township Board.

The term of each member shall be three years and until a successor has been appointed and qualified, which successor must be appointed not more than one month after the expiration of the preceding term. Staggered terms shall be effected by one or more of the first appointed members serving for less than three years. Members from the Township Board and the Planning and Zoning Commission shall have terms limited to their respective other official terms or to such lesser period determined by resolution of the Township Board. A member shall disqualify himself from a vote in which he has a conflict of interest.

1. Zoning Board of Appeals Creation and Membership

- a. The Zoning Board of Appeals (ZBA) shall perform its duties and exercise its powers as provided in Article 6 of Act 110, P.A. 2006, as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and justice done. The Board shall consist of five (5) members, appointed by the Township Board by a vote of a majority of its membership.
- b. The first member shall be a member of the Township Planning Commission for the terms of his/her office.
- c. The remaining members must be selected from the electors of Montmorency Township and shall be representative of the population distribution and of the various interests present in the Township. One (1) member may be a member of the Township Board.
- d. An elected officer of the Township shall not serve as chairman. An employee or contractor of the Township Board may not serve as a member of the Board of Appeals.
- e. The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called to sit as a regular member of the Zoning Board of Appeals in the absence of a regular member if a regular member is absent from or unable to attend one (1) or more meetings of the Zoning Board of Appeals. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The

alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

- f. The terms of office for members of the Zoning Board of Appeals shall be for three (3) years, except for members serving because of their membership on the Planning Commission or the Township Board, whose terms shall be limited to the time they are members of those bodies. When members are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.
- g. A member of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

2. Meetings

- a. Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as the Zoning Board of Appeals may determine or specify in its rules of procedure. All hearings conducted by said Board shall be open to the public. The Zoning Board of Appeals shall adopt its own rules of procedure and keep a record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating said fact; and shall file a record of its proceedings in the office of the Township Clerk, and shall be a public record. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance or to effect any variation of this Ordinance.
- b. The Zoning Board of Appeals shall not conduct business unless a majority of those Board of Appeals members qualified to sit for a particular matter are present to constitute a quorum, regardless of whether the members are regular members or alternate members.
- c. A member of the Zoning Board of Appeals who is also a member of the Planning Commission 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 Planning Commission or the Township Board. However, the member may consider and vote on other unrelated matters involving the same property.

3. Jurisdiction

- a. An appeal concerning the administration of the provisions of this Ordinance may be taken to the Board of Appeals within the timeframe defined in the general rules and procedures adopted by the Zoning Board of Appeals. If such a timeframe is not specified, appeals shall

be filed within thirty (30) days of the decision of the Zoning Administrator from which the appellant seeks relief.

- b. The ZBA may hear appeals made by any person who alleges he or she has been aggrieved by a decision of the Zoning Administrator.
 - c. The ZBA may grant dimensional variances as provided for in **§11.4**. The ZBA shall not grant use variances.
 - d. The ZBA may also interpret the location of zoning district boundaries and may interpret the provisions of this Ordinance.
 - e. An appeal may be made by any person, firm or corporation, or by any Officer, Department or Board of the Township. 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.
 - f. The Zoning Administrator shall transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. 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.
 - g. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.
 - h. The ZBA has no jurisdiction to hear appeals from Planning Commission decisions concerning Special Land Use approvals or Planned Unit Developments.
4. **Stay**: An administrative appeal to the Zoning Board of Appeals and an appeal of a decision by the Zoning Board of Appeals to circuit court stays all proceedings of the action appealed from, including the effectiveness of any zoning permit issued, unless the Zoning Administrator certifies to the Zoning Board of Appeals after such appeal has been filed that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed, unless ordered stayed by the Zoning Board of Appeals or the circuit court. Provided, however, this section shall not apply to an administrative decision to take enforcement action for alleged violations of this Ordinance.

5. **Variances**

- a. **Dimensional Variance Standards**: The ZBA may grant dimensional variances when the applicant demonstrates in the official record of the hearing that the strict enforcement of this Ordinance would result in practical difficulty. To establish practical difficulty, the applicant must establish all of the following:
 - aa. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties

in the surrounding area, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship;

- bb. Strict compliance with the regulations governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;
 - cc. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners;
 - dd. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created).
 - ee. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.
6. **Zoning Board of Appeals Submittal:** The applicant is required to submit six (6) copies of surveys, plans and data as required under **Article 7**, or other information deemed reasonably necessary for making any informed decision on his or her appeal.
 7. **Conditions of Approval:** The ZBA may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in **§10.2**.
 8. **Exercising Powers:** In exercising the above powers, the Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken.
 9. **Time Limit:** No order of the Board of Appeals permitting the erection or alteration 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 substantial construction has occurred.
 10. **Appeals to Circuit Court:** Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the circuit court of Montmorency County. An appeal from a decision of a Zoning Board of Appeals shall be filed within thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson or within twenty-one (21) days after the Zoning Board of Appeals approves the minutes of its decision. The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals. The court may make other orders as justice requires.
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Article 31: Amendments and Supplements

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Amendment Procedure: The procedure for amending this ordinance shall be in accordance with ~~Act 184 of the Public Acts of 1943~~ PA 110 of 2006, as amended.

2. The Planning Commission shall direct the Zoning Administrator to establish a date for a public hearing on the rezoning application and to give proper written legal notice of the hearing as required by ~~Act 184 of the Public Acts of 1943~~ PA 110 of 2006, as amended.

3. The Zoning Administrator shall also send written notice of proposed amendments to the Township Zoning Map to any adjacent landowner within 300' of the subject property pursuant to Article 35 and to the school district in which the change is requested.

ADD

5. **Rezoning Standards:** The Planning Commission shall review and apply the following standards and factors in the consideration of any rezoning request.

- a. Is the proposed rezoning consistent with the Montmorency Township Master Plan?
- b. Are all of the allowable uses in the proposed district reasonably consistent with surrounding uses?
- c. Will there be an adverse physical impact on surrounding properties?
- d. Will there be an adverse effect on property values in the adjacent area?
- e. Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?
- f. Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing regulations?
- g. 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)?
- h. Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?
- i. Is the site served by adequate public facilities or is the petitioner able to provide them?
- j. Are there sites nearby already properly zoned that can be used for the intended purposes?

Article 32: Severability and Conflicting Regulations

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Severability: 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, it shall not affect any portion of this ordinance other than said part or portion thereof.

Conflicting Regulations: Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other Township law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such ordinance shall govern. Where any provision of this Ordinance differs from any other provision of this Ordinance, the more restrictive requirement shall prevail.

Article 33: Effective Date

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1. This ordinance shall take immediate effect. All ordinances or parts of ordinances in conflict herewith are hereby repealed.
2. In accordance with Section 401 of PA 110 of 2006, as amended, following adoption of a zoning ordinance or any subsequent amendments by the Township Board, the zoning ordinance or subsequent amendments shall be filed with the Montmorency Township Clerk, and a notice of ordinance adoption shall be published in a newspaper of general circulation in the Township within 15 days after adoption. Amendments or revisions shall take effect upon the expiration of seven (7) days after publication or at such later date as specified by the Township Board.