



MONTCALM TOWNSHIP

“First and Still Leading”

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**MONTCALM
TOWNSHIP**

**ZONING
ORDINANCE**

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MONTCALM TOWNSHIP ZONING ORDINANCE AS AMENDED

An Ordinance enacted pursuant to the authority contained in Act 184 of the Public Acts of Michigan for 1943, as amended, to establish zoning districts and regulations governing the unincorporated portions of the Township of Montcalm, Montcalm County, State of Michigan, within which districts various uses, development and management of land and other natural resources and structures and buildings may be encouraged, regulated or prohibited; to provide for a Board of Appeals; to provide for nonconforming uses; to provide for amendments; to provide for the administration of the ordinance, including penalties for the violation thereof.

ARTICLE I

SHORT TITLE AND PURPOSE

SECTION 1.01

TITLE

This ordinance shall be known as the MONTCALM TOWNSHIP ZONING ORDINANCE.

SECTION 1.02

PURPOSE

The fundamental purpose of this ordinance is to:

Promote and protect the public health, safety, morals and general welfare;

Promote the orderly development of the Township, including its land and other natural resources, buildings, structures and population, which is essential to the well-being of the community and reduce the disorder and dangers that often adhere in unguided community developments;

Encourage the use of lands and natural resources of the Township in accordance with their character and adaptability;

Limit improper use of the lands of the Township;

Meet the needs of the inhabitants for food and fiber, energy and other natural resources, and for places of residence, recreation, industry, trade, service and other uses of lands;

Insure that uses of land and other natural resources shall be situated in appropriate locations and relationships;

Avoid overcrowding of population;

Lessen congestion on the public roads and streets and provide for safety in traffic and vehicular parking;

Conserve natural resources, energy and property values;

Provide adequate light and air;

Provide, in the interest of health and safety, minimum standards under which certain buildings and structures may hereafter be erected altered and used;

Facilitate the development of an adequate and economic system of transportation, education, recreation, sewage disposal, energy, safe and adequate water supply and other public service and facility requirements;

Conserve life and property and the expenditure of funds for public improvements and services to conform to the most advantageous uses of land, resources and properties;

Promote the best uses of land and resources of the Township by the community in general and the individual inhabitant.

ARTICLE 1A
GENERAL PROVISIONS

SECTION 1A.01

ZONING AFFECTS ALL STRUCTURES AND LAND, AND THE USE THEREOF.

No land, premises, natural resource, structure or building, or any part thereof, shall hereafter be used, occupied, developed or managed, and no structure or building, or any part thereof, shall be erected, moved, enlarged or altered, except in conformity with the provisions of this Ordinance pertaining thereto.

SECTION 1A.02

RESTORING UNSAFE BUILDINGS

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any structure declared unsafe.

SECTION 1A.03

REQUIRED AREA OR SPACE

No lot, parking area or other space shall be so divided, altered, or reduced as to make it less than the minimum required under this Ordinance. If already less than the minimum required, it shall not be further divided or reduced.

SECTION 1A.04

TRAFFIC VISIBILITY AND CORNER CLEARANCE

On any corner lot in any zone no fence, structure, or planting which is over thirty (30) inches in height above the curb line shall be erected or maintained within twenty (20) feet of the intersection of the right-of-way lines in order to prevent traffic hazards arising from inadequate visibility.

SECTION 1A.05
INSTITUTIONAL USES AND ESSENTIAL SERVICES

Institutional uses and essential services are permitted in any zoning district, subject to the following conditions:

- A. No communication tower or wireless communication facility shall be permitted unless special exception use approval has been granted by the Planning Commission pursuant to the terms, conditions and provisions of Article XI, and all necessary building permits have been issued by the zoning administrator.
- B. No institutional use or essential service, with the exception of communication towers and wireless communication facilities provided for above, shall be permitted unless a site plan approval has been granted by the zoning administrator and all necessary building permits have been issued by the zoning administrator. The zoning administrator may consult with the Planning Commission before granting such site plan approval or such building permits.

SECTION 1A.06
YARDS

Every lot must provide front, rear, and side yards within its zoning district. The following modification may be made:

- A. On a lot facing upon a minor or local street where lots adjoining it on both sides have been build upon with a sit-back less than required by this ordinance, the front yard may conform to the established front yard set-back; provided, however, that no front yard may hereafter be less than one-half of the zone requirements of this Ordinance.

SECTION 1A.07
PRINCIPAL USES

No lot may contain more than one (1) principal building unless so stated in specific zoning districts, or as permitted in an approved Planned Unit Development.

SECTION 1A.08
ACCESSORY BUILDINGS

No accessory buildings may be built on any lot on which there is no principal building except under the following conditions:

- A. Farm accessory buildings shall not be subject to the above restrictions.
- B. Adjoining lots in single ownership shall be considered as one lot.
- C. In platted areas wherein the owner has required a lot across street right-of-way from his principal building lot, construction of an accessory building may be approved by the Board provided its location on the lot conforms to this ordinance.

SECTION 1A.09
DWELLING ON REAR OF LOTS

No dwelling shall be constructed, altered or moved in the rear of a building situated on the same lot, nor shall any building be constructed in front of or moved in front of a dwelling situated on the same lot.

SECTION 1A.10
EXISTING PLATTED LOTS

Any lot created and recorded prior to the effective date of this ordinance that fails to comply with the minimum requirements of its zone district may be used in accordance with Article 1B for a permitted use provided said lot is in single ownership and further provided that ninety (90) percent of all yard requirements of its district are complied with: except that no front yard facing upon a street or highway shall be so reduced as to permit the set back line to be closer than eighty (80) feet to the center line of said street. Any existing platted lot in a single ownership which contains ninety (90) percent or more of the required area and width, may also be utilized as a separate lot.

The use of more than one lot in single ownership where the same do not comply with ninety (90) percent of the minimum requirements of this Ordinance shall be determined by the Township Board on the basis of neighborhood character.

SECTION 1A.11
CORNER LOTS

Where a lot is bound by two (2) intersecting streets it shall meet state requirements.

SECTION 1A.12
TEMPORARY USES

The following temporary uses are permitted in any zoning district, except as otherwise restricted elsewhere in this Section, after a site plan approval has been granted by the Zoning Administrator, and after any necessary building permits have been issued by the Zoning Administrator:

- A. A garage home, utilized as a temporary dwelling during the period when a dwelling conforming to the provisions of this Ordinance is in process or erection or completion on the same lot, for a period of time not to exceed twelve (12) months.
- B. Dwellings for seasonal labor.
 - 1. The use of an individual dwelling structure for the purpose of a temporary dwelling for persons having temporary or seasonal employment within the Township shall be allowed only in Districts A-1 and A-2.

2. Such dwelling structures shall not be used for dwelling for more than eight (8) months out of any twelve (12) month period.
 3. Such dwelling structure shall be maintained with safe and sanitary water supply, and with sewage disposal facilities that do not adversely affect the public health.
- C. The storage of building supplies and machinery and the location of temporary storage buildings and customary trade, contractor or architect's identification sign in connection with a construction project for a period of time not to exceed twelve (12) months.
- D. Use of a dwelling in a new subdivision for the purpose of a sales and management office for such subdivision for a period of time not to exceed twelve (12) months.
- E. An individual travel trailer (not a mobile home), utilized as a temporary dwelling during the period of reconstruction due to a disaster, when a dwelling conforming to the provisions of this ordinance is in the process of erection or completion on the same lot, for a period of time not to exceed nine (9) months.

SECTION 1A.13 WALLS AND FENCES

Retaining walls not more than three (3) feet in height are permitted in the required yards of all zones except as provided in Section 1A.04. Walls and solid fences of not more than six (6) feet in height are permitted in side or rear yards in any zone except as provided in Section 1A.04 and a well maintained wire protective fencing is permitted in the front yard in all zones.

SECTION 1A.14 HEIGHT EXCEPTIONS

The height limitations of all zones may be exceeded by the following structures provided that required yards for said structures shall be increased by one-half foot for each foot said structure exceeds the zone height limitation: parapet walls, chimneys, silos and farm barns, roof mounted television and radio antennas, monuments, cupolas, spires or other ornamental projections, water towers or fire towers. In the Industrial zones, chimneys, cooling and fire towers, elevator buildings and bulk-heads, roof storage tank and other necessary appurtenances are permitted above the height limitations provided they are located the same distance as their height from any adjoining property line.

SECTION 1A.15 REFUSE

The storage, collection or placing of discarded material, building materials, mobile homes, manufactured housing, unlicensed travel trailers, inoperable or unlicensed motor vehicles or refuse, or the "dumping" of human waste is prohibited in all zones, except as provided in Section 11.03C.

SECTION 1A.15a

DANGEROUS, HAZARDOUS OR UNSANITARY BUILDINGS OR STRUCTURES

No building or structure, or part thereof, shall be permitted to become or remain in a dangerous, hazardous or unsanitary condition due to fire or other casualty, willful damage or vandalism, neglect or deterioration..

SECTION 1A.16

FLOOD PLAIN

The flood plain areas of lakes, major rivers and their branches and tributaries shall be determined from time to time by the County Engineer and a record of said information shall be kept in the offices of the Building Administrator and the Township Supervisor. Such determinations shall be made on the basis of past experience with floods, information furnished by Michigan Water Resources Commission, the Soil Conservation Services and other responsible sources. No building for human occupancy shall be erected or here after occupied, if vacant, in a Flood Plain area. No soil shall be stripped, excavated or otherwise removed on any premises for sale or for use other than on the premises except when in connection with construction and grading operations, the top soil is in surplus amounts, or as product of authorized excavation of muck, peat, sand, gravel, or other mineral deposits.

SECTION 1A.17

WATERWAYS

- A. Every building or structure hereafter erected shall be not less that fifty (50) feet from an identified or documented Fifty (50) Year Flood Plain line or one hundred (100) feet from the ordinary high water mark, whichever results in the greatest distance from the edge of the river. Minimum lot width shall be one hundred (100) feet at the building line nearest the waters edge, with no less than 20,000 square feet, total, excluding the flood plain. Any new residential construction shall also be governed by the State Construction Code: Act 230 of 1972, Section 115.1501 through 125.1531 or Montcalm Township Construction Code whichever is the greatest.
- B. There shall be no commercial, industrial or mining operations within a minimum of three hundred (300) feet of an identified or documented Flood Plain line.
- C. There should be a minimum setback of one hundred (100) feet from the ordinary high water mark or identified Fifty (50) Year Flood Plain line, whichever results in the greatest distance from the edge of the river, for the installation of septic tanks, tile fields and other sanitary facilities. The bottom of the absorption field shall meet Mid-Michigan Health Department requirements but in case be less than four (4) feet above the high water table line.
- D. A strip twenty-five (25) feet wide on each side of and parallel to the Flat River and tributaries shall be maintained in trees, vegetations and shrubs or in its natural state except that dead, diseased, unsafe or fallen trees as well as noxious plants may be removed.

Trees, vegetation and shrubs may be selectively pruned or removed for landscaping purposes, commercial timber harvest, or to provide a view of the river, as long as the root system remains intact to provide for stream bank stabilization and erosion control, serve as an aid to infiltration of surface runoff and provide cover to shade the water .

SECTION 1A.18 SIGNS

A. General Regulations

1. No sign shall be allowed in any zoning district unless specifically permitted by this Section 1A.18. No sign permitted by this Section 1A.18 shall be erected, constructed, moved or altered until a site plan has been approved by the Montcalm Township Zoning Administrator, except for signs permitted by subsection B of this Section 1A.18.
2. All permitted signs, whether allowed without a permit, or required to obtain a permit, must comply with the following requirements:
 - a. No sign shall include any flashing, oscillating, or intermittent illumination.
 - b. All illuminated signs shall be so placed as to prevent the rays and illumination from being directly cast upon any residences or roadways.
 - c. No sign shall rotate nor contain any moving parts.
 - d. No sign, except those placed and maintained by Township, County or State, shall be located in, overhang, or encroach upon any public road right-of-way.
 - e. No sign shall exceed the maximum height limitation of the zoning district in which it is located.
 - f. The height of signs shall not exceed the distance to the lot lines and rights-of-way in any direction (example; if a sign is twenty (20) feet tall the sign may not be placed closer than twenty (20) feet to the lot lines and rights-of-way).
 - g. All signs must meet the standards of all applicable electrical and building codes.
 - h. All signs shall be maintained so that they comply continuously with all requirements of this ordinance and shall be kept in a good state of repair.
 - i. Portable signs are permitted only in Districts C-1, C-2, C-3 and Industrial. Only one portable sign is allowed per recorded parcel.

B. Signs allowed without a Permit

The following signs are allowed without a sign site plan approval and without a sign permit.

1. Signs advertising real estate for sale or rent. Such signs shall not exceed nine (9) square feet in sign area and are limited to two (2) per parcel.
2. Signs advertising agricultural produce grown on the premises. Such signs shall not exceed nine (9) square feet in sign area and are limited to two (2) per parcel.
3. Signs advertising personal property owned by a resident of the premises. Posting of such signs shall not exceed thirty (30) days. Such signs shall not exceed nine (9) square feet in sign area and are limited to two (2) per parcel.
4. Signs advertising Home occupations. Such signs shall not exceed sixteen (16) square feet in sign area and shall comply with Section 1A.22
5. Signs promoting political candidates or election issues. Such signs shall not exceed

- thirty-two (32) square feet in sign area. Such signs shall not be erected more than ninety (90) days prior to an election and must be removed within ten (10) days after the election.
6. Signs stating the name and/or address of a property owner. Homeowner signs may not exceed four (4) square feet in area in zoning districts R-A and R-B. Farm owner signs may not exceed twenty-four (24) square feet in sign area in zoning Districts A-1 and A-2.
 7. On site traffic signs. Such signs shall not exceed two (2) square feet in sign area.
 8. Temporary on site construction signs and builders name signs. Such signs shall not exceed twelve (12) square feet in sign area. Such signs shall not be erected until a building permit is issued and signs shall be removed within ten (10) days of completion of project.
 9. Signs required to be posted pursuant to the provisions of Article 11, Special Exception Uses, of this Zoning Ordinance.

C. Site Plan Review Required

1. Each sign site plan submitted to the Montcalm Township Zoning Administrator shall be accompanied by a fee set by the Montcalm Township Board and shall be drawn to scale and contain the following information:
 - a. Name, address, and telephone number of applicant, and of owner.
 - b. Specific location where sign is to be placed.
 - c. The location of all property lines, buildings and structures, right-of-ways, easements and roads on the property and adjacent to the property on which the sign is to be located.
 - d. The setback distances of the sign from all lot lines and right-of-way lines.
 - e. The height, area, and dimensions of the sign.
 - f. A drawing of the sign showing the structure, lettering and other features.
2. No site plan shall be approved unless all the information required by subsection 1 above, is shown on the site plan. The Montcalm Township Zoning Administrator shall only approve sign site plan, and grant sign Permits, for signs that fully comply with the provisions and requirements of this Zoning Ordinance.
3. Site plan review for signs, where no other land use, construction or activity is proposed, and where no other building or structure is to be erected, altered, moved or enlarged, is not subject to Article XA.
4. Any sign permit granted pursuant to this Section 1A.18 shall expire one (1) year from the date of approval, unless the sign has been completed in compliance with the sign site plan and sign permit within that one year period.

D. On-site signs, Permit Required

1. One (1) principal sign shall be permitted on the parcel of each commercial, industrial, public, or institutional facility. When more than one commercial, industrial, public, or institutional facility exists on one parcel there shall be allowed only one (1) sign for the parcel.
2. Principal on site signs shall not exceed sixty-four (64) square feet in sign area.
3. No more than two (2) secondary signs shall be permitted on the parcel of each

commercial, industrial, public or institutional facility. When more than one commercial industrial, public or institutional facility exists on one parcel no more than two (2) secondary signs per facility shall be allowed.

4. Secondary on site signs shall not exceed sixteen (16) square feet in sign area.
5. Canopy-Awning Signs are permitted for Principal and Secondary on site signs. The size is determined by the area of the lettering and pictures--not the size of the canopy-awning.

E. Off-site Signs, Permit Required.

1. Off site signs are permitted only in districts C-2, C-3 and Industrial.
2. Off site signs setback must be no less than one hundred (100) feet from the public road right-of-way and one hundred (100) feet from the side lot lines.
3. Off site signs shall not be erected closer than five hundred (500) feet from other off site signs or principal on site signs.
4. Vehicle signs on vehicles not driven during the normal course of business which are parked or located off site for the primary purpose of displaying the advertising copy are prohibited.
5. Off site signs may not exceed sixty-four (64) square feet in sign area.

SECTION 1A.19

ANIMALS

The keeping of any animal not listed below is prohibited in Residential Districts R-A and R-B, Agricultural Districts A-1 and A-2, and all Commercial and Industrial unless the parcel of land contains two and one-half acres or more. Furthermore, any animal indicated by an asterisk (*) below must be approved for keeping in any Residential Districts R-A and R-B by means of a variance:

Dogs	*Llamas
Cats	*Sheep
Fish	*Ostrich
Rabbits	*Bison
Birds (house kept variety)	*Monkeys
*Horses	*Goats (more than three)
*Cattle	*Poultry and fowl (more than twelve)
*Swine	*Reptiles (requiring larger than-20 gallon aquarium)

SECTION 1A.20

ROADS

- A. All roads in platted land, or land proposed to be platted, shall be constructed, at a minimum, to Bituminous pavement platted road specifications of the Montcalm County Road Commission.
- B. All roads, and all driveways and all easements for ingress and egress, providing access, whether or not actually used for such access, to three (3) or more parcels of land not abutting a public street, shall have a minimum width of thirty-three (33) feet

and shall be constructed, at a minimum, to gravel road specifications of the Montcalm County Road Commission.

- C. For the purpose of this Section 1A.20 only, the term “road” shall include all streets, alleys, and roadways, whether public or private.

SECTION 1A.21
MANUFACTURED HOUSING

No mobile homes, manufactured housing, site-built houses or any other dwellings more than eight years old shall be erected or moved on any lot in Montcalm Township. Section does not apply to licensed travel trailers.

SECTION 1A.22
HOME OCCUPATIONS

A. Home Occupations are defined to include the following:

- 1. Making, crafting or assembling products by hand.
- 2. Giving instructions in a craft or fine art.
- 3. Professional occupations requiring graduation from a college or university in a course of study of at least three years in length beyond high school and licensing by the State of Michigan.
- 4. Service occupations.

B. All Home Occupations are subject to the following conditions:

- 1. They must be conducted entirely within the dwelling or permanent enclosed accessory building on the premises.
- 2. The use of the dwelling or permanent enclosed accessory building for the Home Occupation must be clearly incidental and subordinate to its use for residential purposes.
- 3. All home Occupations shall be restricted to persons occupying the dwelling, as their principle residence in addition to one (1) additional employee.
- 4. There shall be no sale of products or services except as are produced on the premises by such Home Occupation, and supplies incident to instruction in a craft or fine art on the premises may be sold to students during their class.
- 5. There shall be no outside storage or display, exterior structure alteration or other visible evidence of the Home Occupation, other than one non-flashing, non-illuminated name plate not exceeding sixteen (16) square feet in area containing the name and Home Occupation.
- 6. The volume of traffic, noise and parked vehicles generated by such Home Occupation shall not be greater than would normally be expected in the neighborhood in which the occupation is located.
- 7. The Home Occupation shall not create smoke, odor, electrical disturbance or interference, lighting, vibration, noise, glare, or fumes discernable outside the dwelling or permanent enclosed accessory building in which the Home Occupation is located.

ARTICLE I-B
NON-CONFORMING USES AND STRUCTURES

SECTION 1B.01
CONTINUANCE OF NON-CONFORMING USES OR STRUCTURES

The lawful use of any land or structure exactly as such existed at the time of the enactment of this ordinance, may be continued even though such use of structure does not conform with the provisions of this Ordinance. Structures or uses non-conforming by reason of height, yards and area or parking provisions may be extended, altered or modernized provided that no additional encroachment of height, area or parking provisions are occasioned thereby.

SECTION 1B.02
UNLAWFUL USE NOT AUTHORIZED

Nothing in this Ordinance shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of regulations in effect immediately prior to the date of this Ordinance.

SECTION 1B.03
CHANGE OF USE

The use of a non-conforming building may be changed to another non-conforming use if the Board of Appeals finds that such new use would markedly decrease the degree of non-conformance and would enhance the desirability of the adjacent conforming uses.

SECTION 1B.04
RESTORATION AND REPAIRS

Such repairs and maintenance work as are required to keep a non-conforming building or structure in a sound condition may be made. If a non-conforming building or structure is damaged or destroyed to the extent of sixty (60) percent of its real value by fire, flood, wind or other calamity, its reconstruction shall be in accordance with this Ordinance. A non-conforming use damaged to a lesser extent may be restored to its size at the time prior to such damage and its use resumed. Any such restoration must be started within a period of one year of the time of such damage and diligently prosecuted to completion.

SECTION 1B.05
NON-CONFORMING DUE TO RECLASSIFICATION

The foregoing provision of this Article shall apply to buildings, land or uses which hereafter become non-conforming due to any reclassification of districts or any subsequent change in the regulations of this Ordinance.

SECTION 1B.06
NON-CONFORMING USE DISCONTINUED

No building or premises where a non-conforming use has ceased for more than Twelve (12) months shall be devoted to a non-conforming use except as provided in Section 1B.03 above.

SECTION 1B.07
NON-CONFORMING USES ELIMINATED

All existing junk yards as herein defined may continue if the operator obtains a special exception use permit pursuant to Article XI. Notwithstanding the provisions of Section 1B.01 above, all other junk yards not obtaining a special exception use permit shall be discontinued within three (3) years of the effective date of this amended Ordinance.

Non-conforming signs and billboards may be maintained until such time as the sign structure, frame or supports must be replaced, renovated, altered or moved. At such time the sign must comply with all provisions of this Ordinance. This shall not be construed to prohibit the re-lettering or re-painting of a sign or billboard.

SECTION 1B.08
ACQUISITION BY TOWNSHIP

The elimination of the non-conforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The Township, through the Township Board, may acquire, by purchase, condemnation under its power of eminent domain, or otherwise private property or any interest in private property for the removal of non-conforming uses or structures. The cost and expense, or any portion thereof, of acquiring the private property may be paid from general funds or assessed to a special district as a special assessment.

ARTICLE II
ZONING DISTRICTS

SECTION 2.01
TYPES OF DISTRICTS

For the purpose of this Ordinance, all of the unincorporated area of Montcalm Township is hereby divided into the following zoning districts, the location of which are shown upon the zoning map of Montcalm Township, Montcalm County, Michigan:

- A. R-A, Residential Districts
- B. R-B, Residential Districts
- C. A-1, Agricultural Districts
- D. A-2, Agricultural Districts
- E. C-1, Commercial Districts
- F. C-2, Commercial Districts
- G. C-3, Commercial Districts
- H. I Industrial Districts
- I. P Public Land Districts

SECTION 2.02
LOCATION OF DISTRICTS

The areas assigned to the zoning districts, the designation of the same, and the boundaries of each district shown upon the Zoning map, Montcalm Township are part of this Ordinance.

Said map and all proper notations and references and other information, shall be as much a part of this Ordinance, as is described therein.

SECTION 2.03
BOUNDARY LINES OF ZONING DISTRICTS

Unless otherwise specified in this Ordinance, or otherwise shown on the Zoning map of Montcalm Township, Montcalm County, Michigan the boundary lines of zoning districts shall follow along the Section lines indicated on the United States Land Survey Maps, or lines of customary subdivision of such section, such as quarter and eighth lines; or the centerline of highways, streets, alleys, or waterways; or the shore lines or water bodies; or the boundaries of incorporated areas; or the boundary lines of recorded plats or subdivisions; or the property lines of legal record on the date of enactment of this Ordinance, or the extension of any such lines.

ARTICLE III
RESIDENTIAL DISTRICTS R-A

The following provisions shall apply for all Residential Districts (R-A).

SECTION 3.01
USES

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

A. Principal Permitted Uses

1. Detached one-family dwellings.
2. Publicly owned parks and playgrounds.

B. Accessory Permitted Uses

1. A private garage for passenger automobiles.
2. Boarding, lodging or tourist homes.
3. Home occupations as provided for in Section 1A.22.
4. Property owners with two and one-half (2 ½) acres or more shall be permitted to construct one or more accessory utility buildings of any size complying with all set-back and yard requirements, no more than 16 feet in height, except that on any lot smaller than 2 ½ acres in size, only one accessory utility building shall be permitted of no more than 1260 square feet and no less than eighty (80) square feet of floor area.
5. Signs as permitted in Section 1A.18

C. Special Exceptions Uses as provided for in Article XI.

SECTION 3.02
SIZE OF DWELLING LOTS

Every parcel of land on which a dwelling is hereafter erected or altered shall be not less than one acre (43,500 square feet) in area not less than one hundred fifty (150) feet in width at the building site; provided that this requirement shall not apply to a lot of record as defined by this Ordinance, and the owner possesses no abutting property from which said requirements may be met.

SECTION 3.03
SET BACK

Every building hereafter erected shall be set back not less than sixty (60) feet from the right-of-way of front lot line abutting any state or federal highway, and not less than fifty (50) feet from the right-of-way of any other public road or thoroughfare.

SECTION 3.04
YARDS

- A. Side yards, dwellings.
There shall be a side yard of not less than twenty (20) feet in width on each side of every dwelling hereafter erected, and no building or part thereof shall be erected, or moved within such side yard; provided, that on a lot of record, the widths may be reduced to no less than ten (10) feet.
- B. Rear yards, dwellings.
Every dwelling hereafter erected shall have a rear yard not less than thirty (30) feet in depth.
- C. Side yards, corner lots.
The width of a side yard of a corner lot abutting a side street shall not be less than thirty-five (35) feet, but this shall not reduce the buildable width of any lot of record to less than thirty (30) feet in depth at ground level.
- D. Side and rear yards, non-dwellings.
No building hereafter erected shall be located less than ten (10) feet from the side or rear lines of the lot or property.

SECTION 3.05
HEIGHT LIMITATIONS

No building or structure, or any part thereof, shall be erected or altered to a height exceeding two and one-half (2 ½) stories not to exceed twenty-eight (28) feet.

SECTION 3.06
FLOOR AREA DWELLINGS

- A. Every one-story dwelling hereafter erected shall have not less than nine hundred (900) square feet of floor area exclusive of any attached garage, open porches or other attached structures.
- B. Every dwelling hereafter erected greater than one story shall have not less than eight hundred (800) square feet of floor area at the first floor level exclusive of any attached garage, open porches or other attached structures.

ARTICLE IV
RESIDENTIAL DISTRICTS R-B

The following provisions shall apply to all Residential Districts R-B

SECTION 4.01
USES

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

A. Principal Permitted Uses:

1. Detached one-family dwellings.
2. Publicly owned parks and playgrounds.
3. Multiple-family dwellings and apartments.

B. Accessory Permitted Uses:

1. A private garage for passenger automobiles.
2. Boarding, lodging or tourist homes.
3. Home occupations as provided for in Section 1A.22.
4. Property owners with two and one-half (2 ½) acres or more shall be permitted to construct one or more accessory utility buildings of any size to comply with all set backs and yard requirements, no more than 16 feet in height, except that on any lot smaller than two and one-half (2 ½) acres in size, only one accessory utility building shall be permitted of no more than 1280 square feet and no less than eighty (80) square feet of floor area.
5. Signs as permitted in Section 1A.18.

C. Special Exceptions Uses as provided for in Article XI.

SECTION 4.02
SIZE OF DWELLING LOTS

Every parcel of land on which a dwelling is hereafter erected or altered shall be no less than 30,000 square feet in area, not less than one hundred (100) feet in width at the building site; provided, that this requirement shall not apply to a lot of record and the owner possesses no abutting property from which said requirements may be met.

SECTION 4.03
SET BACK

Every building hereafter erected shall be set back not less than sixty (60) feet from the right-of-way of front lot line abutting any state or federal highway, and Not less than fifty (50) feet from the right-of way of any other public road or thoroughfare.

SECTION 4.04
YARDS

A. Side Yards, Dwellings.

There shall be a side yard of not less than fifteen (15) feet in width on each side of every dwelling hereafter erected and no building or part thereof shall be erected or moved within such side yard; provided, that on a lot of record the widths may be no less than eight (8) feet.

B. Rear Yards, Dwellings

Every dwelling hereafter erected shall have a rear yard no less than twenty (20) feet in depth.

C. Side Yards, Corner Lots.

The width of a side yard of a corner lot abutting a side street shall not be less than 35 feet, but this shall not reduce the buildable width on any lot or record to less than twenty-four (24) feet in depth at ground level.

D. Side and Rear Yards, Non-Dwellings.

No building hereafter erected shall be located less than eight (8) feet from the side or rear lines of the lot or property.

SECTION 4.05
HEIGHT LIMITATIONS

No building or structure or any part thereof shall be erected or altered to a height exceeding two and one-half (2 ½) stories not to exceed twenty-eight (28) feet.

SECTION 4.06
FLOOR AREA, DWELLINGS

- A. Every dwelling hereafter erected shall have not less than eight hundred (800) square feet of floor area at the first floor level exclusive of any attached garage, open porches or other attached structures.
- B. Every dwelling hereafter erected greater than one-story shall have not less than six hundred (600) square feet of floor area at the first floor level exclusive of any attached garage, open porches or other attached structures.

ARTICLE V
AGRICULTURAL DISTRICTS A-1

The following provisions shall apply to all Agricultural Districts A-1.

SECTION 5.01
USES

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

A. Principal Permitted Uses.

1. Farms, including both general and specialized farming.
2. Farm dwelling, farm building and structures, including roadside stands and home occupations, except that on any lot smaller than two and one-half (2 ½) acres in size, only one dwelling and one accessory utility building complying with all set-backs and yard requirements and no more than sixteen (16) feet in height and no more than 1280 square feet and no less than eighty (80) square feet for floor area, shall be permitted to construct one or more accessory utility buildings of any size complying with all set backs and yard requirements, no more than 16 feet in height.
3. Detached one-family dwellings.
4. Publicly owned parks and playgrounds.

B. Accessory Permitted Uses, building and structures

1. A private garage for passenger automobiles.
2. Boarding, lodging or tourist homes.
3. Home occupations as provided for in Section 1A.22.
4. One (1) dwelling in addition to the farm dwelling for the use of domestic employees, hired farm labor, tenants, or persons related to the farm landowner, than eight hundred twenty (820) square feet, provided such dwelling shall contain no less of floor area at the first floor level, exclusive of any garage area, breezeway, or carport and such other accessory buildings as the owner may require for his use of said premises.
5. Signs as permitted in Section 1A.18.

C. Special Exception Uses as provided for in Article XI.

SECTION 5.02
SIZE OF DWELLING LOTS

Every parcel of land on which a dwelling is hereafter erected or altered shall not be less than one acre (43,560 square feet) in area and not less than one hundred fifty (150) feet in width at the building site.

SECTION 5.03
SETBACK

No building hereafter erected shall be set back less than sixty (60) feet from the right-of-way line abutting any state or federal highway, and not less than fifty (50) feet from the right – of-way line abutting any other public road or thoroughfare.

SECTION 5.04
YARDS

No building hereafter erected shall be less than twenty (20) feet from any side line or thirty (30) feet from any rear line of the premises or parcel of land upon which located.

SECTION 5.05
HEIGHT LIMITATIONS, DWELLINGS

No building or structure, or any part thereof, shall be erected or altered to a height not to exceed two and one-half (2 ½) stories not to exceed twenty-eight (28) feet.

SECTION 5.06
FLOOR AREA, DWELLINGS

- A. Every one-story dwelling hereafter erected shall have not less than nine hundred (900) square feet of floor area exclusive of any attached garage, open porches or other attached structures.
- B. Every dwelling hereafter erected greater than one-story shall have not less than eight hundred (800) square feet of floor area at the first floor level exclusive of any attached garage, open porches or other attached structures.

ARTICLE VI
AGRICULTURAL DISTRICTS A-2

The following provisions shall apply to Agricultural Districts A-2.

SECTION 6.01
USES

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

A. Principal Permitted Uses.

1. Farms including both general and specialized farming.
2. Farm dwelling, farm buildings and structures, including roadside stands and home occupations, except that on any lot smaller than two and one-half (2 ½) acres in size, only one dwelling and one accessory building complying with all set backs and yard requirements and no more than sixteen (16) feet in height and no more than 1280 square feet and no less than eighty (80) square feet of floor area, shall be permitted, except property owners with two and one-half (2 ½) acres or more shall be permitted to construct one or more accessory utility buildings of any size complying with all set backs and yard requirements, no more than sixteen (16) feet in height.
3. Multiple family dwellings and apartments
4. Detached one-family dwellings.
5. Publicly owned parks and playgrounds.

B. Accessory Permitted Uses.

1. One (1) dwelling in addition to the farm dwelling for the use of domestic employees, hired farm labor, tenants, or persons related to the farm landowner.
2. All uses permitted as follows: Home Occupations as provided for in Section 1A.22.
3. Signs as permitted in Section 1A.18.

C. Special Exception Uses as provided for in Article XI.

SECTION 6.02
SIZE OF DWELLING PREMISES

Every parcel of land on which a dwelling is hereafter erected or altered shall be not less than thirty thousand (30,000) square feet in area, nor less than one hundred (100) feet in width at the building site; provided, that this requirement shall not apply to a lot of record and the owner possess no abutting property from which said requirement may be met.

SECTION 6.03
SETBACKS

No building hereafter erected shall be set back less than sixty (60) feet from the right-of-way or front lot line abutting any state or federal highway and not less than fifty (50) feet from the right-of-way line of any other public road or thoroughfare.

SECTION 6.04
YARDS

A. Side Yards, Dwellings.

There shall be a side yard of not less than fifteen (15) feet in width on each side of every dwelling hereafter erected, and no building or part thereof shall be erected, or moved within such side yard; provided, that on a lot of record, the widths may be reduced to no less than eight (8) feet.

B. Rear Yards, Dwellings.

Every Dwelling hereafter erected shall have a rear yard not less than twenty (20) feet in depth.

C. Side Yards, Corner Lots.

The width of a side yard of a corner lot abutting a side street shall not be less than the minimum front yard requirements on an adjoining lot fronting on the side street, but this shall not reduce the buildable width of any lot of record to less than twenty-four (24) feet in depth at ground level.

D. Side and Rear Yards, Non-Dwellings.

No building hereafter erected shall be located less than eight (8) feet from the side or rear lines of the lot or property.

SECTION 6.05
HEIGHT LIMITATIONS

No building or structure, or any part thereof, shall be erected or altered to a height exceeding two and one-half (2 ½) stories not to exceed twenty-eight (28) feet.

SECTION 6.06
FLOOR AREA, DWELLINGS

Every one-story dwelling hereafter erected shall have not less than eight hundred (800) square feet of floor area exclusive of any attached garage, open porches or other attached structures.

Every dwelling hereafter erected greater than one-story shall have not less than six hundred (600) square feet of floor area at the first floor level exclusive of any attached garage, open porches or other attached structures.

ARTICLE VII
COMMERCIAL C-1

The following provisions shall apply to all commercial districts C-1.

SECTION 7.01
USES

The C-1 District is intended to meet the primary shopping and service needs of the residential community. No building or structure, or part thereof, shall hereafter be erected, altered, used or occupied, or land or premises used or occupied, in whole or in part, for other than one or more of the following specified uses. No use shall be conducted as to constitute a nuisance or emit unhealthful, objectionable, hazardous fumes, dust, radiation, noise, heat or glare beyond the outer boundaries of the premises on which located. Good standards in smoke emissions shall be exercised.

A. Principal Permitted Uses.

1. Store and shops for the conduct of retail sales of goods and merchandise such as a drug store, food store, hardware store, variety store, clothing store, dry-goods store, produce store, jewelry or gift shop, retail bakery shop, appliance store or furniture store.
2. Personal service establishments for direct service to the customers, such as a barber shop, beauty parlor, shoe repair shop, flower shop, restaurant, office, music or dance studio, photographic studio, household appliance service, bank, post office, dry cleaning pick-up service, self service laundry or cleaning establishment, pet shop or indoor theatre.
3. Essential services, accessory parking areas and accessory signs.

B. Accessory or Secondary Permitted Uses.

1. Dwellings, subject to provisions contained in Article IV, or an apartment occupied by the owner or manager of the principal permitted use and located in the same building and one story above such principal permitted use.
2. Accessory uses, buildings and structures clearly incidental to principal permitted uses and located on the same premises, including minor repairing, assembly or fabrication of said principal permitted use and also including exterior lighting of building or grounds; provided however, the light is from shaded sources and so located that the beams are not directed toward any lot in a residential district or public highway.
3. Signs as permitted in Section 1A.18.

C. Special Exception Uses as provided for in Article XI.

SECTION 7.02
YARDS AND HEIGHT LIMITATION

A. Front Yard.

The following yard requirements shall be measured from the right-of-way of any State or Federal Highway or from the right-of-way line of any other public road or thoroughfare. There shall be a front yard of at least fifty (50) feet. Where a parking area is provided in a front yard, no less than five (5) feet adjacent to said right-of-way shall be landscaped. In lieu of a landscaped area, the parking area shall be separated from said right-of-way by a raised curb, anchored bumper, or other similar physical structure such that parked vehicles do not protrude into said right-of-way.

B. Rear Yard.

There shall be a rear yard of at least fifty (50) feet in depth and no principal or accessory building or structure shall be closer to a Residential or Agricultural District than a distance equal to twice its height.

C. Side Yards.

There shall be two side yards and no side yard shall be less than fifteen (15) feet in width.

D. Height Limitations

No building or structure, or part thereof, shall be erected or altered to a height exceeding thirty-five (35) feet.

SECTION 7.03
MISCELLANEOUS RESTRICTIONS

A. Buffer Strip.

When a C-1 District is adjacent to a Residential District, there shall be provided and maintained a buffer strip of no less than ten (10) feet in width. Said buffer strip shall be in addition to any side yard or rear yard requirements.

B. The Sale and/or Consumption of ALCOHOLIC BEVERAGES IS PROHIBITED IN DISTRICT C-1.

C. Screening.

1. Screening shall be provided along the entire border where a C-1 District is adjacent to a Residential District.
2. Screening shall be provided around all outdoor storage, sufficient to screen and block the outdoor storage from all adjoining premises, public highways and thoroughfares.

SECTION 7.04
ACCESSORY BUILDINGS

Accessory utility buildings are subject to provisions contained in Article IV, Section 4.01, number 4.

ARTICLE VII-A
COMMERCIAL C-2

The following provisions shall apply to all Commercial Districts C-2.

SECTION 7A.01
USES

The C-2 District is intended to meet the general shopping, service, and business needs of the Township and the motoring public. No building or structure, or part thereof, shall hereafter be erected, altered, used or occupied, or land or premises used or occupied, in whole or in part, for other than one or more of the following specified uses. No use shall be so conducted as to constitute a nuisance or emit unhealthful, objectionable, hazardous fumes, dust radiation, noise, heat or glare beyond the outer boundaries of the premises on which located. Good standards in smoke emissions shall be exercised.

A. Principal Permitted Uses.

1. Any principal use permitted in Commercial district C-1.
2. Other retail sales and convenience services, office buildings, restaurants, including drive-in restaurant, drinking establishments, bowling alleys, miniature golf courses, skating rinks, racquet clubs, athletic and gymnastic facilities and other recreational enterprises and drive-in stands.
3. Automobiles, truck, motor home, travel trailer, mobile home, motor cycle, snowmobile or boat sales and rentals and service stations. Incidental servicing is also permitted where accessory to one of the above listed sales or rental operations.
4. Motels, Hotels, and other types of temporary lodging accommodations and animal hospitals.
5. Printing, photographic, sign establishments, construction supply establishments such as electrical, plumbing and heating supply when conducted within enclosed structures, and construction and service establishments conducted within enclosed structures and which do not store equipment, vehicles, or material outside enclosed structures.
6. Wholesale establishments, distributing establishments and storage establishments but not including flammable, explosive or similar hazardous products.
7. Signs as permitted in Section 1A.18.
8. Public uses and institutional uses.

B. Accessory or Secondary Uses.

1. Dwellings, subject to provisions contained in Article IV, or an Apartment occupied by the owner or manager of the principal permitted use and located in the same building and one story above such principal permitted use.
2. Accessory uses, buildings and structures clearly incidental to principal permitted uses and located on the same premises, including incidental minor repairing, assembly or fabrication of said principal permitted use and also including exterior lighting of building or grounds; provided, however, the light is from shaded

sources and so located that the beams are not directed toward any lot in a residential district or public highway.

C. Special Exception Uses as provided for in Article XI.

SECTION 7A.02
YARD AND HEIGHT LIMITATION

A. Front Yard.

The following yard requirements shall be measured from the right-of-way of any State or Federal Highway or from the right-of-way line of any other public road or thoroughfare. There shall be a front yard of at least fifty (50) feet. Where a parking area is provided in a front yard, no less than five (5) feet adjacent to said right-of-way shall be landscaped. In lieu of a landscaped area, the parking area shall be separated from said right-of-way by a raised curb, anchored bumper, or other similar physical structure such that parked vehicles do not protrude into said right-of-way. Gasoline station pump Islands may be located in said fifty (50) feet, but no closer than thirty (30) feet to any lot line.

B. Rear Yard.

There shall be a rear yard of at least fifty (50) feet in depth.

C. Side Yard.

There shall be two side yards and no side yard shall be less than ten (10) feet in width.

D. Height Limitations

No building or structure, or part thereof, shall be erected or altered to a height exceeding thirty-five (35) feet.

SECTION 7A.03
MISCELLANEOUS RESTRICTIONS

A. Buffer Strip.

Where a C-2 District is adjacent to a Residential District, there shall be provided and maintained a buffer strip of no less than ten (10) feet in width. Said buffer strip area shall be in addition to any side yard or rear yard requirements.

B. Screening.

1. Screening shall be provided along the entire border where a C-2 District is adjacent to a Residential District.
2. Screening shall be provided around all outdoor storage, sufficient to screen and block the outdoor storage from all adjoining premises, public highways and thoroughfares.

SECTION 7A.04
ACCESSORY BUILDINGS

Accessory utility buildings are subject to provisions contained in Article IV, Section 4.01, No. 4.

ARTICLE VII – B
COMMERCIAL C-3

The following provisions shall apply to all Commercial Districts C-3.

SECTION 7B.01
USES

The C-3 District is intended to meet the Commercial needs of the business and industrial customers as well as the general public. No building or structure, or part thereof, shall hereafter be erected, altered, used or occupied, or land or premises used or occupied, in whole or in part, for other than one or more of the following specified uses. No use shall be so conducted as to constitute a nuisance or emit unhealthful, objectionable, hazardous fumes, dust, radiation, noise, heat or glare beyond the out boundaries of the premises on which located. Good standards in smoke emissions shall be exercised.

A. Principal Permitted Uses.

1. Any principal use permitted in Commercial District C-1 or in Commercial District C-2.
2. Agricultural implement and supply sales and rental.
3. Lumberyards, building materials, coal yards and establishments of a similar nature.
4. Commercial garages, automobile parts and repair shops and other repair shops.
5. Utility buildings including service and storage yards and necessary sub-stations, radio and television stations, and similar establishments.
6. Bus stations.
7. Mortuaries.
8. Mobile Home Parks.
9. Garage sales and Flea Markets sales.

B. Accessory or Secondary permitted Uses.

1. Dwellings, subject to provisions contained in Article IV, or an Apartment occupied by the owner or manager of the principal permitted use and located in the same building and one story above such principal permitted use.
2. Accessory uses, buildings and structures clearly incidental to principal permitted uses and located on the same premises, including incidental minor repairing, assembly of fabrication of said principal permitted use and also including exterior lighting of building or grounds; provided however, the light is from shaded sources and so located that the beams are not directed toward any lot in a residential district or public highway.
3. Community Buildings and Clubs, Fraternal Organizations.
4. Repair, conversion, alteration, finishing, assembling, fabrication or storage of goods for sale on the premises at retail to the ultimate consumer; provided however, there is not, in connection with the operation of any machinery, or the conduct of any process or activity, the emission of odor, fumes, dust, smoke, waste, glare or vibration.

C. Special Exception Uses as provided for in Article XI.

SECTION 7B.02
YARDS

A. Front Yards.

The following yard requirements shall be measured from the right-of-way of any State of Federal Highway or from the right-of-way line of any other public road or thoroughfare. There shall be a front yard of at least fifty (50) feet. Where a parking area is provided in a front yard, no less than five (5) feet adjacent to said right-of way shall be landscaped. In lieu of a landscaped area, the parking area shall be separated from said right-of-way by a raised curb, anchored bumper, or other similar physical structure such that parked vehicles do not protrude into said right-of-way. Gasoline stations pump islands may be located in said fifty (50) feet, but no closer than thirty (30) feet to any lot line. Signs may be located within the front yard, so long as they are not located on the right-of-way of any State of Federal Highway, public road or thoroughfare.

B. Rear Yard.

There shall be a rear yard of at least fifty (50) feet in depth.

C. Side Yard.

There shall be two side yards and no side yard shall be less than ten (10) feet in width.

SECTION 7B.03
MISCELLANEOUS RESTRICTIONS

A. Buffer Strip.

Where a C-3 District is adjacent to a Residential District, there shall be provided and maintained a buffer strip of no less than ten (10) feet in width. Said buffer strip area shall be in addition to any side yard of rear yard requirements.

B. Screening.

1. Screening shall be provided along the entire border where a C-3 District is adjacent to a Residential District.
2. Screening shall be provided around all outdoor storage, sufficient to screen and block the outdoor storage from all adjoining premises, public highways and thoroughfares.

SECTION 7B.04
ACCESSORY BUILDINGS

Accessory utility buildings are subject to provisions contained in Article IV, Section 4.01 Number 4.

ARTICLE VIII
INDUSTRIAL DISTRICT I

The following provisions shall apply to all Industrial Districts I.

SECTION 8.01
USES

No building, structure, or part thereof, shall hereafter be erected, altered, used or occupied, or land or premises used or occupied, in whole or in part, for other than one or more of the following specified uses. No use shall be so conducted as to constitute a nuisance or emit unhealthful, objectionable, hazardous fumes, dust, radiation, noise, heat or glare beyond the outer boundaries of the premises on which located. Good standards in smoke emissions shall be exercised.

A. Principal Permitted Uses.

1. Manufacture, assembly and storage of any product or material not generally recognized as hazardous or obnoxious.
2. Transportation facilities, including rail, automotive and air.
3. Signs as permitted in Section 1A.18.

B. Accessory or Secondary Permitted Uses.

1. Utilities, including necessary accessory structures.
2. Offices and sales buildings for any permitted use.
3. Accessory uses, buildings and structures clearly incidental to principal permitted uses and located on the same premises, including exterior lighting of building or grounds; provided however, the light is from shaded sources and so located that the beams are not directed toward any lot in a Residential District or public highway.

C. Special Exception Uses as provided for in Article XI.

SECTION 8.02
LOCATION OF BUILDINGS AND STRUCTURES

No building or structure other than fences shall be located less than sixty (60) feet from the right-of-way of any public highway or thoroughfare and not less than thirty (30) feet from the boundary lines of any other kind of abutting zoning district.

SECTION 8.03
MISCELLANEOUS RESTRICTIONS

A. Buffer Strip.

Where a District I is adjacent to a Residential District there shall be provided and maintained a buffer strip of no less than ten (10) feet in width. Said buffer strip area shall be in addition to any other set-back or yard requirements, including those found under Section 8.02.

B. Screening.

1. Screening shall be provided along the entire border where a District I is adjacent to a Residential District.
2. Screening shall be provided around all outdoor storage, sufficient to screen and block the outdoor storage from all adjoining premises, public highways and thoroughfares.

SECTION 8.04
ACCESSORY BUILDINGS

Accessory utility buildings are subject to provisions contained in Article IV, Section 4.01 Number 4.

SECTION 8.05
DWELLINGS – Industrial District

In the event a variance is granted for a dwelling in the Industrial District, every parcel of land on which a dwelling is hereafter erected or altered shall be not less than 30,000 square feet in area, not less than one hundred (100) feet in width at the building site; provided, that this requirement shall not apply to a lot of record and the owner possesses no abutting property from which said requirements may be met.

ARTICLE IX
PUBLIC LANDS P

SECTION 9.01

All property owned by schools, municipalities, township, state, county, and Federal Government shall be declared public land.

ARTICLE X
SUPPLEMENTARY PROVISIONS

SECTION 10.01

RELATION TO OTHER LAWS AND PRIVATE RESTRICTIONS

Whenever the provisions of other laws or ordinances or existing private covenants running with the land, are more restrictive than the requirements of this Ordinance, such applicable provisions shall govern; provided however, that such covenants are not prohibited by or contrary to the provisions of this Ordinance.

SECTION 10.02

LOT AND AREA REQUIREMENTS-GENERAL

A. Reduction of Lot.

No lot or parcel of land shall be so reduced that the yards or other spaces of the area thereof is less than the minimum required by zoning districts required by this Ordinance.

B. Open Yards.

Every part of any required yard shall be open and unobstructed by chimneys, pilasters, sills, belt courses, cornices, eaves or gutters, provided however, that such chimneys, pilasters, sills, belt courses, cornices, eaves or gutters, may project no more than thirty-six (36) inches into any required yards.

SECTION 10.03

VEHICULAR PARKING SPACE, ACCESS THERETO AND LIGHTING THEREOF

For each dwelling, commercial, industrial, manufacturing or other similar business or service establishment hereafter erected, and located on a public highway, road or street in the unincorporated portions of the township, and including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable space off the public right-of-way which is in general adequate for the parking or loading of vehicles in proportions shown on the following table, and such space shall be provided with safe entrance. Such exit and entrance may be combined or provided separately. Approval for the location of such exit and entrance shall be obtained from the State Highway Department for all trunk line highways in the township, which approval shall also include the design and construction thereof in the interests of safety, adequate drainage and other public requirements. A minimum of two hundred (200) square feet exclusive of drives, entrances and exits shall comprise one automobile parking space. All parking space as required in this section, except that required for dwelling, shall be provided with adequate artificial lighting between any time extending from one-half (1/2) hour before sunrise when the use of such space is open to the public.

A. Dwellings.

One (1) parking space for each family unit occupying the premises.

B. Motels and similar Establishments Offering Lodging.

One (1) Parking space for every unit.

- C. **Hospitals and Institutions of similar nature.**
One (1) parking space for every two (2) patients.
- D. **Theatres, Churches, Public and Private Halls, Amusement and Recreation Establishments, and all places of Public Assembly.**
One (1) parking space for every five (5) seats of seating capacity.
- E. **Offices and Professional buildings.**
One (1) parking space for every six hundred (600) square feet of floor area; provided, that doctors offices and clients shall be provided four (4) spaces for each doctor.
- F. **Restaurants and other Public Food Serving Establishments.**
One (1) parking space for every one hundred (100) square feet of floor area.
- G. **Retail Stores and Shops.**
One (1) parking space for every one hundred (100) square feet of floor area.
- H. **Personal Service shops –such as Barber and Beauty Shops.**
One (1) parking space for every two hundred (200) square feet of floor area.
- I. **Taverns.**
One (1) parking space for every fifty (50) square feet of floor area.
- J. **Manufacturing Establishments.**
One (1) parking space for every four hundred (400) square feet of floor area.

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

SECTION 10.04 HIGHWAY AND RAILROAD INTERSECTION

- A. **Highway Intersections.**
 1. At intersections of the highways with highways where grades are not separated by over or under passes, setback lines are hereby established across each sector between the intersecting highways. Such setback lines shall be straight lines connecting points on the intersecting highway right-of-way lines.
 2. At the intersection of any Montcalm County Primary Highway or any Michigan State Trunk line highway with any other highway, said connection points shall be located one hundred fifty (150) feet distance from the intersections of the highway right-of-way lines. At the intersection of any highway or private roadway which is not included in either the Montcalm County Primary or the Michigan State Trunk line highway system with any other such highway or private roadway shall be located one hundred fifty (150) feet distance from the intersection of the highway right-of-way lines.

B. Railroad Intersections.

1. At intersections of highways and railroads where the grades are not separated, set back lines are hereby established across each sector between intersecting highways and railroads. Such set back lines shall be straight lines connecting points on the highway right-of-way lines and the railroad right-of-way line, which points are located at distances of one-hundred fifty (150) feet from the intersection of such highway and railroad right-of-way lines respectively.

C. Buildings and structures relative to Setback Areas.

1. No building or structure of any kind, except necessary highway and traffic signs, and open fences through which there shall be clear vision shall be hereafter constructed, erected or moved into the space within such setback lines. Except as herein provided, no building or structure except necessary highway and traffic signs, presently existing within such setback lines, shall be renewed or replaced hereafter in any way, except outside setback lines.
2. No building or structures within the established setback lines, except necessary highway and traffic signs and open fences herein mentioned shall be altered, enlarged or added to in any way which will increase or prolong the permanency of any portion within the established setback lines.
3. When any highway or right-of-way or part thereof is officially adopted into the Montcalm County road or the Michigan State Trunk line system, such highway or right-of-way shall automatically be subject to the provisions of this Ordinance.

ARTICLE XA
SITE PLAN REVIEW AND BUILDING PERMIT ISSUANCE

SECTION 10A.01
SITE PLAN REVIEW PROCEDURE

- A. To insure that a proposed land use or activity is in compliance with this Zoning Ordinance and applicable state and federal statutes, certain documents, drawings, plans, specifications and other information constituting a site plan as described in Paragraph D must be submitted, reviewed and approved in accordance with Paragraphs E through L before any proposed land use, construction or activity is begun and before any building or structure is erected, altered, moved or enlarged.
- B. . All site plan review shall be done by the zoning administrator, except when site plan review is for the purpose of obtaining a Special Exception Use permit, in which case site plan review shall be done by the Planning Commission. All site plan review shall be done in accordance with the provisions of this Article. The term “reviewing agency” as used in this Article can mean either the Planning Commission or the Zoning Administrator, as appropriate. Requests for site plan review shall be made by filing with the reviewing agency a review fee as determined by resolution of the township board based upon the cost of processing the review and as shall be on file with the township clerk for public information, three copies of the site plan review application and three copies of the proposed site plan.
- C. A site plan review application shall contain, as a minimum, the following information:
1. The name and address of applicant, including the names and addresses of any officers of a corporation or partners of a partnership.
 2. The name and address of the owner of the subject parcel of land, including the names and addresses of any officers of a corporation or partners of a partnership, if different than the applicant.
 3. The legal description of the subject parcel of land.
 4. The area of the subject parcel of land stated in acres, or if less than one (1) acre, in square feet.
 5. The present zoning classification of the subject parcel of land.
 6. A general description of the proposed development and the intended use of the proposed development.
- The reviewing agency may waive any of the above required information whenever such information is unnecessary or inappropriate for site plan review because of the nature or character of the land use or activity.
- D. The proposed site plan shall included, as a minimum, the following information:
1. A scale drawing of the site and proposed development thereon, including the date, name and address of the preparer, and the signatures of the preparer, the applicant and the owner of the subject parcel of land, and showing all dimensions in figures.
 2. Building plans and specifications for the proposed development.
 3. The topography of the site and its relationship to adjoining land.

4. Any existing man-made features.
5. Dimensions of setbacks, location, heights and size of structures and other important features.
6. Dwelling unit density where pertinent.
7. Location of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated or abandoned, including grades and types of construction of those upon the site.
8. Curb-cuts, driving lanes, parking and loading areas.
9. Location and type of drainage, sanitary sewers, storm sewers and other facilities.
10. Fences, landscaping, screening, proposed earth changes.
11. Environmental impact of the project if required by state or federal law.
12. Signs and on-site illumination.
13. The location of natural resources.
14. Any and all additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be demanded by the reviewing agency.

The reviewing agency may waive any of the above required information whenever such information is unnecessary or inappropriate for site plan review because of the nature or character of the land use or activity.

- E. The reviewing agency shall have the authority to approve, disapprove or approve with conditions the proposed plan in accordance with the criteria set forth in Paragraph 7. All conditions upon which any site plan approval is granted shall be specified in detail and shall be in accordance with Paragraph D of Section 11.04. The decision of the reviewing agency shall be made within sixty (60) days of the receipt of the required information from the applicant. The reviewing agency shall have the right to limit the duration of the effectiveness of its approval, where the need therefor is of a temporary nature.
- F. If the site plan is approved with conditions, the reviewing agency may require the applicant to submit a revised site plan incorporating the conditions required by the reviewing agency, which meets with the approval of the reviewing agency, before any construction or development is begun on the subject parcel of land.
- G. In reviewing the site plan request and approving, disapproving or approving with conditions such request, the zoning administrator shall be governed by the following standards:
 1. That there is a proper relationship between the existing street and highways within the vicinity to assure the safety and convenience of pedestrian and vehicular traffic.
 2. That the buildings, structures and entry ways thereto proposed to be located upon the premises are so situated and designed as to minimize adverse effects therefrom upon owners and occupants of adjacent properties and the neighborhood.
 3. That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.

4. That any adverse effects of the proposed developments and activities emanating therefrom upon adjoining residences or owners shall be minimized by appropriate screening, fencing or landscaping.
 5. That all provisions of the zoning ordinance are complied with unless an appropriate variance therefrom has been granted by the Board of Appeals.
 6. That the plan is consistent with and would promote the intent and purpose of this zoning ordinance found in Section 1.02; and
 7. That all provisions of state statutes and federal statutes are complied with.
- H. Two (2) copies of the final site plan, whether approved, disapproved or approved with conditions, together with any conditions thereon and together with the reasons for the approval, disapproval, and conditions thereon, shall be maintained as part of the township records for future review and enforcement. One of the two copies shall be kept by the reviewing agency and one (1) copy shall be kept by the Zoning Administrator. Also, one (1) copy shall be returned to the applicant. Each copy shall be signed and dated with the date of final determination by the reviewing agency.
- I. If any variance from the zoning ordinance is to be part of the final site plan, the applicant must obtain the variance from the Board of Appeals according to the procedure established in this zoning ordinance, before the reviewing agency can make a final decision concerning site plan review. The reviewing agency shall make its final decision concerning site plan review within sixty (60) days of the decision of the Board of Appeals concerning the proposed variance pertaining to the proposed site plan, or within sixty (60) days of receipt of the required information for site plan review from the applicant, whichever is later, in such a case. One (1) copy of the minutes of the variance approval by the Board of Appeals shall be filed with each copy of the final site plan maintained by the township and one (1) copy thereof shall be given to the applicant.
- J. Property, buildings or structures which are the subject of site plan review must be developed or constructed in strict compliance with the approved site plan including any and all conditions thereon and any issued building permit. If construction or development do not conform with such approved plan, or such building permit, the approval thereof may be forthwith revoked by the zoning administrator by written notice of such revocation posted upon the premises involved and mailed to the applicant at his last know address. Upon revocation of such approval, all further construction or development activities shall cease upon the site, other than for the purpose of correcting the violation.
- The reviewing agency may, however, upon proper application by the applicant, approve an amendment to the final site plan, and the zoning administrator may, upon proper application by the applicant, grant an amended building permit. The application, review and approval concerning such amendments shall comply with all of the procedures, standards and requirements necessary for the original site plan approval or building permit issuance.
- K. Approval of the site plan shall be valid for a period of one (1) year after the date of approval. If on-site development or construction has not actually commenced or if a building permit

has not been obtained, if one is required, within said one (1) year, the site plan approval shall become void and a new request for site plan review and approval shall be required and new approval must be obtained before any construction or development or construction shall progress reasonably toward completion.

- L. To insure compliance with this zoning ordinance and any conditions imposed on any site plan approval by the reviewing agency, the reviewing agency may require a cash deposit, certified check or irrevocable bank letter of credit or surety bond covering the estimated cost features or actions associated with a project which are considered necessary by the reviewing agency to protect natural resources, or the health, safety and welfare of the residents of the township and future users or inhabitants of the proposed project or project area, to ensure faithful completion of said features or actions. Such security shall be deposited with the township treasurer at the time of the granting of site plan approval or site plan approval with conditions authorizing such activity or use. Where the features or actions required will take more than six (6) months to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

SECTION 10A.02

BUILDING PERMIT PROCEDURE

- A. No building or structure shall be erected, altered, moved or enlarged until a building permit has been granted by the zoning administrator. No building permit shall be granted by the zoning administrator until an appropriate site plan approval has been granted by the reviewing agency for the concerned premises and building or structure construction.
- B. The issuance of a building permit shall be based upon the information submitted to the reviewing agency for purposes of site plan review and any and all additional material information necessary to assure that the proposed building or structure conforms in all respects to the provisions of this zoning ordinance, and as to any new residential construction, the Montcalm Township Construction Code and the State Construction Code, Act 230 of 1972. No building permit shall be granted by the zoning administrator unless the planned building or structure conforms in all respects to the provisions of this zoning ordinance, unless an appropriate variance therefrom has been granted by the Board of Appeals, and as to any new residential construction, the Montcalm Township Construction Code and the State Construction Code, Act 230 of 1972.
- C. A fee as set by the Township Board, to defray the cost of building permit review, approval and inspection, shall be paid to the zoning administrator before any building permit is granted by the zoning administrator.

- D. Any building permit shall be issued within sixty (60) days of the date of receipt by the zoning administrator of written request therefor, accompanied by the required information and fee, from the applicant. Two (2) copies of all approved building permits shall be kept by the zoning administrator and one (1) copy of the building permit shall be given to the applicant. Then the zoning administrator shall retain one (1) copy of the approved building permits and shall give one to the township assessor.
- E. A building permit shall expire one (1) year from its date of issuance. If on-site construction has not actually commenced within said one (1) year or if construction has progressed reasonably to completion within said one (1) year, the building permit shall become void and a new request for a building permit shall be required before any construction is commenced upon the site. If construction has progressed reasonably toward completion during said one (1) year, and if a written request for an extension in time has been made to the zoning administrator, the zoning administrator shall issue a one (1) year extension of the building permit. No more than two (2) such extensions shall be granted for the construction of any building or structure. A fee, in the amount of one-half (1/2) the cost of the original building permit, shall be paid to the zoning administrator by the applicant, for each such extension of the building permit.
- F. Before issuing a building permit for any premises intended for use as a combination of dwelling and commercial occupancy or where an increased number of dwelling units would result from a proposed alteration, the zoning administrator shall request a report from the Mid-Michigan Health Department as to any hazards that exist or may be expected to exist from the proposed use, together with their recommendation for any additional provisions or alterations necessary in the interest of safety or health. Such recommendation shall be complied with before issuance of a permit.
- G. Where public utility services are available, no building permit shall be issued for any building to be occupied by human beings, in whole or in part, for dwelling, commercial, residential or recreational purpose unless provisions have been made to install public sewer and/or water, no building permit shall be issued for any building to be occupied by human beings, in whole or in part, for dwellings, commercial, industrial or recreational purpose unless adequate provisions have been made for a safe water supply and sewage disposal system; evidence of compliance with the requirements of the Mid-Michigan health Department shall accompany the application for a building permit.

ARTICLE XI
SPECIAL EXCEPTION USES

SECTION 11.01
STANDARDS FOR SPECIAL EXCEPTION
USE APPROVAL

In order to make this ordinance a flexible zoning control and still afford protection of property values and orderly and compatible development of property within the township, the Planning Commission, in addition to its other functions, is authorized to approve the establishment of certain uses designated as special exception uses within the various zoning classifications set forth in the ordinance. Such special exception uses have been selected because of the unique nature of the use which prevents its inclusion in any specific district or districts or because of the unique characteristics of the use which, under certain physical circumstances and without proper controls and limitations, might cause it to be incompatible with the other uses permitted in the various districts and accordingly detrimental thereto.

Therefore special exception uses are not permitted to be engaged in any district unless and until the Planning Commission, in its absolute discretion, is satisfied that the same, under the conditions, controls, limitations, circumstances and safeguards proposed therefore, and imposed by said Planning Commission, would comply with the following standards:

- A. Would be consistent with, and would promote the intent and purpose of this Zoning Ordinance found in Section 1.02.
- B. Would be compatible with the other uses expressly permitted within the district, with the natural environment and with the capacities of public services and facilities affected by the land use, and would not, in any manner, be detrimental or injurious thereto.
- C. Would not, in any manner, be detrimental or injurious to the use or development of adjacent properties, to the occupants thereof or to the general neighborhood.
- D. Would promote the public health, safety, morals and general welfare of the community.
- E. Would encourage the use of lands in accordance with their character and adaptability.
- F. Would be suitable in relation to the community need which may be served by the proposed use.
- G. Would have the approval of the Mid-Michigan Health Department and other public agencies as appropriate to the proposed use.
- H. Would not create a nuisance.
- I. Would comply with the specific standards applicable to specific proposed special exception uses, found in Section 11.03.

In addition, special exception uses shall not be permitted to be engaged in unless the Planning Commission is satisfied that the above standards, the specific standards found in Section 11.03, and any conditions imposed for the allowance of such special exception use by the Planning Commission can and will be met at all times by the applicant. The burden of proof of facts which might establish a right to a special exception use permit under the above standards and following specific standards shall be upon the applicant.

SECTION 11.02
TYPES OF SPECIAL EXCEPTION USES

- A. Gravel pits, which include the removal or any soil resources.
- B. Oil, gas or other drilling activity.
- C. Junk Yards.
- D. New & Used Cars, Machinery and Equipment Lots.
- E. Commercial stock yards.
- F. Disposal, dumping or application of wastewater treatment plant residuals to land.
- G. Intensive Livestock Operations.
- H. Communication Towers and wireless communication facilities.
- I. Sexual Oriented Business
- J. Cemeteries and Mausoleums.
- K. Public and Private Airports.
- L. Country Clubs and Golf courses.
- M. Hunt Clubs, Gun Clubs or other public or private recreational Clubs.
- N. Amusement Parks or racetracks.
- O. Outdoor theaters.
- P. Private or Church sponsored camping areas or campgrounds.
- Q. Community or county approved sanitary landfill areas.
- R. Convalescent homes or nursing homes.
- S. Mobile Home Parks.
- T. Storage building or structure for housing animal waste.
- U. Storage building or structure for housing wastewater treatment plant residuals.

SECTION 11.03
SPECIFIC SPECIAL EXCEPTION USE STANDARDS

- A. Gravel pits, which include the removal of any soil resources.**
 - 1. The change in the natural contour of the land during mining operation and at cessation of same shall be maintained as safe for any person having reason to be within the area of mining activity and for all trespassers.
 - 2. No business or industrial structures or buildings of a permanent nature shall be erected, except when the mining occurs in a commercial or industrial district where such buildings are a permitted use.
 - 3. No truck parking or truck storage shall be located within two hundred (200) feet of any adjacent residence, or within fifty (50) feet of any adjoining property.
 - 4. All operations shall be screened with a well maintained or painted wooden fence six (6) feet in height, and landscaping maybe required on any side adjoining a residential property.
 - 5. No part of the removal shall take place closer than two hundred (200) feet to the nearest adjacent residence or closer than one hundred (100) feet to any street or road line.
 - 6. Where quantities of earth are to be removed from the parcel, a topographic contour of proposed restoration elevations shall be presented by the engineers for examination and report to the Planning Commission. No special exception permit shall be issued unless the Planning Commission finds that the elevations will be compatible with surrounding

areas, that adequate safeguards are being made to insure proper drainage, and that the property will be restored by the replacement of top soil and such soil shall be stabilized by appropriate planting.

7. All truck traffic shall be directed away from residential streets and roads.
8. The Montcalm County Road Commission shall be exempt from the provisions of Section 11.03A for any road construction work done within or adjacent to the right-of-way of a county or state roadway.

B. Oil, gas or other drilling activity.

Oil and gas wells, including the drilling operations for any underground resources, though not controlled by this Ordinance shall comply with the following:

1. No truck parking or storage shall be located within two hundred (200) feet of an adjacent residence or within fifty (50) feet of an adjoining property.
2. All truck operations shall be directed away from residential streets.

C. Junk Yards.

1. Upon approval, and on the first day of January of each year thereafter, the applicant shall pay a fee in such amount as determined by the Township Board to the Montcalm Township Treasurer for so long as the special exception permit continues.
2. Junk yards shall only be permitted on property that abuts a street or road, but shall not be operated, established or maintained within two hundred (200) feet of the edge of the right-of-way of an traveled street or roadway.
3. Junk yards shall not be permitted in any zoning district except agricultural district A-2.
4. No junk yard shall be operated, established or maintained within 1000 feet of any church, school, public building, Park, recreation area, cemetery, zoned residential district or dwelling unit (except a dwelling resided in by the owner or operator of the junk yard).
5. No junk yard shall be approved unless the applicant has at least ten (10) acres of land available therefor.
6. No dumping of garbage or trash shall be permitted on any junkyard premises.
7. Every junk yard shall be enclosed by a solid fence of no less than five and one-half (5 ½) feet in height from the ground level and no more than ten (10) feet in height, to be painted and kept in good repair and sightly condition. No advertising shall be affixed in any way upon such fence other than the advertising of the person or firm operating such junkyards. No material stored within the fenced area shall be visible above said fence and no material shall be placed or located outside the boundaries of such fence.
8. Any person or firm who shall cease operating, establishing or maintaining a junk yard, for any reason whatsoever, either temporarily or permanently, shall first remove from the premises all junk material of any kind whatsoever, and shall leave said premises in a clean and orderly condition.

D. New and Used Car, machinery and Equipment Lots.

1. Upon approval, and on the first day of January of each year thereafter, the applicant shall pay a fee in such amount as determined by the Township Board to the Montcalm Township Treasurer for so long as the special exception permit continues.

2. No lot shall be operated, established or maintained within a distance of twenty-five (25) feet from the edge of the right-of-way of any traveled street or roadway.
3. The applicant shall display on the premises a sign clearly visible to persons doing business with said applicant, stating the owner of said lot. The sign so displayed shall be of a minimum size of ten (10) square feet with letters sufficiently large and clear to be readable at a distance of one hundred (100) feet and shall be located behind the roadway right-of-way.
4. All buildings and structures erected or to be erected on the premises shall have ground floor area of not less than two hundred (200) square feet. The use of any tents, shacks or other outbuildings of temporary nature is prohibited.
5. The premises shall, at all times, be kept in a neat and sightly condition. Any person or firm who shall cease operating, establishing or maintaining a lot, for any reason whatsoever, either temporarily or permanently, shall first remove from the premises all debris of any kind whatsoever, and shall leave said premises in a clean and orderly condition.

E. Commercial Stock Yards.

1. Upon approval, and on the first day of January of each year thereafter, the applicant shall pay a fee in such amount as determined by the Township Board to the Montcalm Township Treasurer for so long as the special exception permits continues.
2. No commercial stock yard shall be operated, established or maintained within three hundred (300) feet of the edge of the right-of-way of any traveled street or roadway.
3. All buildings or structures erected or to be erected on the premises shall have a ground floor area of not less than seven hundred fifty (750) square feet. The use of tents, shacks or other outbuildings of a temporary nature is prohibited.
4. Every commercial stockyard shall be enclosed by a fence of sufficient height and strength so as to keep properly enclosed all livestock on said premises. All livestock on said premises shall, at all times, be kept and maintained within said fenced enclosure.
5. Any premises used as a commercial stockyard shall, at all times, be kept in a clean and sightly condition, free from any unnecessary refuse or debris. Any person or firm who shall cease operating, establishing or maintaining a commercial stock yard, for any reason whatsoever, either temporarily or permanently, shall first remove from the premises all refuse and debris of any kind whatsoever, and shall leave said premises in a clean and orderly condition.

F. Disposal, Dumping or Application of Wastewater Treatment Plant Residuals to Land.

1. Wastewater treatment plant residuals must be transported in tightly covered, waterproof, leak proof containers or vehicles, between the hours of 7:30am and 5:30pm Monday through Friday, but excluding holidays.
2. Disposal, dumping or application shall take place only on land located with Agricultural Districts A-1 or A-2.
3. There shall be a minimum three hundred (300) foot buffer from the boundaries of the disposal, dumping or application site to any dwelling unit, well, stream, or body of water.
4. The water table at the disposal, dumping or application site must be at least forty-eight (48) inches below the land surface at the time of the disposal, dumping or application,

- with a slope of less than two(2) percent, or four (4) percent if internally drained.
5. The disposal, dumping or application site must contain a minimum of twenty (20) contiguous acres. Two (2) or more parcels each of which are less than twenty (20) acres, may be combined to comprise one site.
 6. Wastewater treatment plant residuals shall only be disposed of, dumped or applied by soil injection method, at distances of at least six (6) inches below the ground surface, and only when there is less than four (4) inches of frost on the ground.
 7. There shall be no more than one (1) disposal, dumping or application of wastewater treatment plant residuals per disposal, dumping or application site per growing season with a maximum of two (2) disposals, dumpings or applications per calendar year. The disposal, dumping or application of wastewater treatment plant residuals shall be started and completed in as short a period of time as weather conditions permit.
 8. The transportation vehicle(s) shall be reasonably clean and free of wastewater treatment plant residuals, including its tires, wheels, chassis and undercarriage.
 9. Any spillage of wastewater treatment plant residuals shall be cleaned up promptly.
 10. Access routes shall be as directed as possible to the disposal dumping or application site, and shall utilize, whenever possible, county primary roads and avoid, whenever possible residential areas.

G. Intensive Livestock Operations. (ILO)

1. The following site and developmental requirements shall apply:
 - a. The ILO shall be established on a single parcel under single ownership of at least 80 acres.
 - b. Minimum parcel width shall be one thousand three hundred twenty (1320) feet.
 - c. All buildings, structures, confinement areas, enclosed areas, and collection or storage areas for waste, feed, or other materials associated with the ILO shall be set back a minimum distance of five hundred (500) feet from a public right-of-way or any adjacent property line, one thousand three hundred twenty (1320) feet from an existing residence, other than the house of the operator of the ILO, fifteen hundred (1500) feet from an existing church, business, recreation area, or public building, and a subdivision plat or condominium subdivision.
 - d. All buildings, structures, confinement areas for enclosed areas, and collection or storage areas for waste, feed, or other materials associated with the ILO shall be located at least seven hundred fifty (750) feet from any water body, or flood plain, including wetlands, flowing streams, or designated county drains.
 - e. The area utilized for the dispensing of waste materials shall be no closer than three hundred (300) feet to any public right-of-way, or to any adjacent property line.
 - f. No ILO shall be permitted where any lot line is within five thousand two hundred eighty (5280) feet of another ILO lot line.
2. Special Performance standards.
 - a. Animal waste collection or storage areas shall not be loaded until an emergency capture and containment facility has been installed at the site. The emergency capture and containment facility shall conform with current standards established or recommended by the Natural Resources Conservation Service and the Michigan Department of Natural Resources, plans and specifications for the areas and facilities

- shall be submitted to the Township Planning Commission for review and approval.
- b. The size of any animal waste collection or storage area shall be determined by the Planning Commission at the time of the site plan review, and shall take into account the amount of available land for WATER DISPOSAL AND RECOMMENDATIONS by the Natural Resources Conservation Service, the Michigan Department of Natural Resources, or other authority consulted by the township.
 - c. Four (4) test wells shall be installed near any animal waste collection or storage area and water samples are to be randomly tested at such area monthly in the presence of a representative appointed by the Montcalm County Health Department, or other qualified independent laboratory. These water samples shall be submitted to the Health Department for review. At least two (2) tests shall be conducted prior to loading an animal waste collection or storage area.
 - d. The disposal and dispensing of animal waste that is generated from an ILO shall be conducted in an agronomically sound method according to the Accepted Agricultural Practices promulgated by the Michigan Commission on Agriculture. The township board may appoint a qualified testing laboratory to perform soil testing at the site to define acceptable levels of nitrogen, phosphorus, and potash.
3. Intensive Livestock Operations shall not be permitted in any zoning districts except Agricultural Districts A-1 and Agricultural Districts A-2.

H. Communication Towers and Wireless Communication Facilities.

1. The following site and developmental requirements shall apply:
 - a. The minimum site area shall be that size which will allow the communication tower to be located so that there is sufficient radius of open and clear land around the tower to provide that its collapse would be completely contained on the property.
 - b. The base of the tower and guy wire supports (if any) shall be completely enclosed with a minimum five (5) foot high fence.
 - c. The use of guy wires is strictly prohibited within residential districts.
 - d. The application for Special Exception Use approval shall include but not be limited to the following:
 - (1) A visual impact analysis prepared by the applicant, which includes graphic depiction of the anticipated visual appearance of the tower from important vantagepoints in the surrounding area. Methods used in preparing the analysis shall be reviewed and approved by the Planning Commission.
 - (2) A list of all properties investigated for placement of the proposed tower and the rationale for selecting the proposed location. A minimum of two (2) possible alternate site locations, shall be submitted.
 - (3) The list in (2) above shall demonstrate why it is not feasible to provide equivalent service by locating the antenna on an existing tower or other existing structure in the township.
 - (4) An engineering study must be submitted showing that there is a reasonable need for the tower in order to provide intended services.
 - e. Subject to items d. (1) and d. (2) above, the proposed tower shall be located the maximum distance reasonable from an existing tower supporting an antenna of the same carrier.

- f. The tower will not have an adverse impact on significant views from properties within one quarter (1/4) mile of the tower site. For purposes of this section, a significant view is defined as a view from a residential property which has one or more of the following characteristics
 - (1) A view from a residence and its curtilage which encompasses landscape features substantially free of man-made alteration, as a result of the unique topographic placement of the home.
 - (2) A view which is a dominant feature of a residential building site, and which contributes significantly to the value of the residential building site as may be evidenced by the placement of a home on the site, the size, number, and orientation of windows on the home, and the location and orientation of improved outdoor spaces on the home site, such as patios and decks.

The fact that the proposed tower may be visible from a residence shall not be considered an adverse impact on a significant view.

2. Special Performance Standards:

- a. The tower must be setback from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by the Planning Commission or designated engineering advisor that the structural integrity of the tower will withstand high winds and impacts, and the likelihood of a tower failure is minimal. The applicant shall incur all costs associated with township engineering review.
- b. Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than sixty (60) feet.
- c. Accessory structures shall not exceed six hundred (600) square feet of building area in total.
- d. All buffer strips and screening requirements within the zoning ordinance shall be met.
- e. All towers shall be equipped with an anti-climbing device to prevent unauthorized access.
- f. The plans of the tower construction shall be certified by a registered structural engineer.
- g. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
- h. All towers must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.
- i. Communication towers in excess of one hundred (100) feet in height above grade level shall be prohibited within a two (2) mile radius of a public airport or one-half (1/2) mile radius of a helipad.
- j. No part of any tower, antenna, or accessory structure shall be constructed, located, or maintained at any time, permanently or temporarily, on or upon any required setback or yard area for the district in which the tower, antenna, or accessory structure is to be located. In no case shall a tower, antenna, or accessory structure be located within sixty (60) feet of a property line or two hundred (200) feet of a single-family dwelling.
- k. Metal towers shall be constructed of, or treated with, corrosive resistance material.

- l. Antenna and metal towers shall be grounded for protection against a direct strike by Lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
 - m. Towers with antennae shall be designed to withstand a uniform wind load as prescribed in the building code.
 - n. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be a least eight (8) feet above the ground at all points, unless buried underground.
 - o. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned and/or leased by the applicant.
 - p. Towers shall be located so they do not interfere with reception in nearby residential areas.
 - q. The base of the tower shall occupy no more that five hundred (500) square feet.
 - r. Minimum spacing between tower locations shall be one (1) mile in order to prevent a concentration of towers in one area.
 - s. Towers shall not be artificially lighted unless required by the Federal Aviation Administration.
 - t. Existing on-site vegetation shall be preserved to the maximum extent practicable.
 - u. There shall not be displayed advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
 - v. Structures shall be subject to any State and Federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive State or Federal Standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard or the Special Use approval will be subject to revocation by the Township Board. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
 - w. There shall be no employees located on the site on the permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
 - x. Tower and antenna height shall be a minimum height necessary to serve its intended function.
3. The tower and accessory building housing equipment needed for the operation of the tower shall be of a size, type, color and exterior materials which are aesthetically and architecturally compatible with the surrounding area, and as minimally obtrusive as possible. Screening may be required by the Planning Commission to accomplish screening of accessory buildings and structures.
 4. The owner/operator of the tower may agree to permit use of the tower by other communications service providers, including local government agencies, on reasonable terms, so long as such use does not conflict with the owner/operator's use of the tower. Towers must be built to handle at least three (3) additional antennas.
 5. If, for any reason, the tower ceases operation or is abandoned, the Township may order its removal from the site. The owner of the tower and/or the property owner will have three (3) months to remove the tower upon receiving notification from the township to

do so. If the tower is not removed within the specified time period and an extension is not granted by the township, the township may cause the removal of the tower. After removal of the tower by the township, a notice shall be mailed to the tower owner and the property owner stating the nature of the work done and demanding payment of the costs, legal fees, inspections and other related expenses as certified by the township board. If the amount specified in the notice is not paid within ninety (90) days, it shall be certified as an assessment and become a lien against the property.

6. If the height required for the tower to serve its function decreases from the installed height, due to technological advancement, additional tower installations at other locations, or other factors, the tower shall be lowered to such decreased minimum height.
7. The applicant shall provide an affidavit signed by the property owner(s), on a form provided by the township, acknowledging approval from the property owner to allow placement of the tower and accessory buildings and structures at the proposed site and acknowledging the township's requirements regarding removal of the tower as stated in #5 above.
8. Prior to issuance of a permit for the placement of an additional antenna or other appurtenances on any existing tower, the following provisions must be satisfied.
 - a. The applicant shall provide documentation from the tower owner acknowledging approval to allow the placement of the additional antenna or appurtenance and the structural integrity, as certified by an engineer, of the tower to support the addition.
 - b. A visual impact analysis, including a graphic depiction of the anticipated visual appearance of the tower with all-existing and proposed antennas or appurtenances from important vantage points in the surrounding area. Methods used in preparing the analysis shall be reviewed and approved by the Planning Commission.
 - c. The accessory building housing equipment needed for operation of the antenna or appurtenance shall be of a size, type, color and exterior materials which are aesthetically compatible with any existing accessory buildings on the site as well as with the surrounding area and as minimally obtrusive as possible. Screening may be required by the Planning Commission to accomplish screening of accessory equipment buildings and structures.
 - d. All requirements for original placement of tower must also be met for additional antennas and appurtenances.
9. A communication tower, including all antennae and appurtenances attached thereto, that complies with all of the other terms, conditions and provisions of this Zoning Ordinance, and all other applicable laws, rules, regulations, is exempt from the height limitations of the zoning district in which it is located.

I. Special Exceptions Use—SEXUAL ORIENTED BUSINESS

Sexually oriented businesses require special supervision in order to protect and preserve the health, safety, and welfare of the patrons of such business as well as the communities where they locate.

There is convincing documented evidence that sexually oriented businesses, because of their very nature, can facilitate and support undesirable and detrimental patterns of activity in their vicinity. These impacts are incompatible with activities and uses in residential areas, or

near educational, recreational, and religious facilities. They also have negative impacts upon local businesses and their immediate neighborhood.

It is recognized that sexually oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other or establishments serving alcoholic beverages. The evidence indicates that there are additional increases in undesirable and harmful patterns of activity. These patterns contribute to urban blight and downgrading the quality of life in the adjacent area.

The township of Montcalm desires to prevent these adverse affects and thereby protect the health, safety, and welfare of the citizenry, preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight.

It is not the intent of this Ordinance to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact content neutral provisions which address the adverse secondary effects of Sexually Oriented Businesses.

It is not the intent of the Township of Montcalm to condone or legitimize the distribution of the obscene material, and the Township recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statutes against any such illegal activities within Montcalm Township.

A. PURPOSE AND INTENT-Sexually Oriented Business (SOB)

It is the purpose of these provisions to regulate **Sexually Oriented Business (SOB)** and related activities to promote the health, safety, and general welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Township. These provisions do not have the purpose of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent of these provisions to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of these provisions to condone or legitimize the distribution of obscene materials.

B. DEFINITIONS

For the purpose of interpreting the application of the foregoing limitations on certain business locations and enforcement of these provisions the following terms or designations shall have the following meanings:

- a. Adult Bookstore: A commercial establishment that as a principal business purpose offers for sale or rental for any form of consideration any one or more of the items set out in subsection (1) or (2).
 - (1) Books, magazines, periodicals or other printed matter or photographs, films, motion picture video cassettes or video reproduction, slides, or other visual representations or media which depict or describe specified anatomical areas or specified sexual activity; or
 - (2) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

The sale of such materials shall be deemed to constitute a principal business purpose of an establishment if it comprises twenty-five (25) percent or more of

- sales volume or occupies twenty-five (25) percent or more of the floor area or visible inventory within the establishment.
- b. Adult Live Entertainment Center: A nightclub, bar, restaurant, or similar commercial establishment that features:
 - (1) Persons who appear in the state of nudity;
 - (2) Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
 - (3) Films, motion pictures, videocassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
 - c. Adult Motel: A hotel, or motel or similar commercial establishment that:
 - (1) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television (as distinguished from commercial cable services) transmissions, films, motion pictures, videocassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas;
 - (2) Offers sleeping room for rent for a period of time that is less than twelve (12) hours; or
 - (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.
 - d. Adult Motion Picture Theater: A commercial establishment that shows films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that depicts or describes specified anatomical areas or specified sexual activities. This description also includes commercial establishments that offer individual viewing booths.
 - e. Adult Smoking or Sexual Paraphernalia Store: An establishment having, as many of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting, or inhaling marijuana, narcotics, or other stimulating or hallucinogenic drug-related substances.
 - f. Adult Theater: A theater, concert hall auditorium, or similar commercial establishment that features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of specified anatomical areas or specified sexual activities.
 - g. Escort : A person who, for any form of consideration and regardless of who pays that consideration, agrees to act or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a strip tease for another person.
 - h. Escort Agency: A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
 - i. Manager's Station: Designated area from which a premises is managed or supervised.

- j. Massage Parlor: Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massages are administered for pay, including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet two (2) or more of the following criteria:
- (1) Proof of graduation from a school of massage licensed by the State of Michigan;
 - (2) Official transcripts verifying completion of at least three hundred (300) hours of massage training from an American community college or university; plus three (3) references from massage therapists who are professional members of a massage association referred to in this section;
 - (3) Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or other recognized massage association with equivalent professional membership standards; or
 - (4) A current occupational license from another state.
- k. Nude Model Studio: Any place where a person who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration but does not include the following:
- (1) An Educational Institution funded, chartered, or recognized by the State of Michigan; or
 - (2) Any modeling session for a local, nonprofit organization, that is not open to the public or to any persons other than members of the organization, that is for the purpose of instruction in the artistic depiction in two (2) dimensional or three (3) dimensional media of the human form, during which no specified sexual activities occur and during which the model remains in a fixed pose.
- l. Open Dance Hall: An establishment where open dancing by patrons is available during at least four (4) days per week with or without partners furnished by the establishment.
- m. Permit: A special exception use permit for the operation of a **Sexually Oriented Business** has been issued.
- n. Permittee: A person or persons in whose name a permit to operate a **Sexually Oriented Business** has been issued.

- o. **Public Nudity or State of Nudity:** Knowingly or intentionally displaying in a public place, or in any other place for payment or promise of payment by any person including, but limited to payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does NOT include any of the following:
 - (1) A woman's breast feeding of an infant shall not under any circumstances constitute public nudity irrespective of whether the nipple is covered during or incidental to the feeding.
 - (2) "Material" defined in section 2 of Act No. 343 of the Public Acts of Michigan of 1984, being section 752.362 of the Michigan Compiled Laws.
 - (3) "Sexually Explicit Visual Material" as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.
 - (4) Any display of any part of the anatomy occurring as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the State of Michigan.
- p. **Sexual Encounter Center:** A business or commercial enterprise, except that which is part of the practice of and under the supervision and control of a physician, psychologist or psychiatrist licensed to practice in Michigan, that, as one of its principal business purposes offers for any form of consideration:
 - (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - (2) Activities between male and female and/or persons of the same sex when one (1) or more of the persons is in a state of nudity.
- q. **Sexually Oriented Business:** A business or commercial enterprise engaging in any of the following businesses:
 - (1) Adult bookstore;
 - (2) Adult live entertainment center;
 - (3) Adult motel;
 - (4) Adult motion picture theater;
 - (5) Adult smoking or sexual paraphernalia store;
 - (6) Adult theater;
 - (7) Escort agency;
 - (8) Massage parlor;
 - (9) Nude model studio;
 - (10) Open Dance Hall; and
 - (11) Sexual Encounter Center.

- r. Specified Anatomical Areas: Are defined as the following:
 - (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts at or below the top of the areola; and
 - (2) Human male genitals in a discernibly turgid state even if completely and opaquely covered.
- s. Specified Sexual Activities Includes ANY of the following:
 - (1) The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - (2) Sex acts, actual or simulated, including intercourse, oral copulation or sodomy;
 - (3) Masturbation, actual or simulated;
 - (4) Human genitals in a state of sexual stimulation or arousal; or
 - (5) Excretory functions as part of or in connection with any of the activities set forth in (1), (2), (3), or (4) above.
- t. Transfer of Ownership or Control: Shall mean and include any of the following:
 - (1) The sale, lease, or sublease of the business;
 - (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
 - (3) The establishment of a trust, gift, or other similar legal device which transfers ownership or control of the business except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

C. SPECIFIC REQUIREMENTS

All **Sexually Oriented Businesses** shall comply with the following:

- a. No persons under eighteen (18) years old shall enter or be on the premises of a **Sexually Oriented Business** at any time the business is open.
- b. No person under the age of eighteen (18) shall be employed, contracted, or engaged to provide any services within, for or on behalf of a **Sexually Oriented Business**.
- c. No owner, partner, performer, contractor, or employee of a **Sexually Oriented Business** shall sell or provide goods, merchandise, or services to persons under the age of eighteen (18) on the premises.
- d. There shall be no physical contact between any performer and any other performer, or any owner, or independent contractor, or employee, patron, or other person during or for at least one (1) hour following any performance. "Physical Contact" includes but is not limited to any contact in which any part of the body or clothing of one person touches any part of the body or clothing of the other person or if the person causes anything under his/her control to touch any part of the body or clothing of another person.
- e. The following prohibitions required by letter (f) of this section shall be posted on signs on both the exterior and interior walls of the entrances in a location which is clearly

- visible to those entering and exiting the business. In addition, signs shall be posted in at least two (2) conspicuous places (i.e., they will be easily viewed by persons occupying the premises). Such signs shall be at least 24" x 36" and use lettering which is at least two (2) inches in height.
- f. Signs posted both on the interior and exterior walls shall read:
 - (1) Persons under the age of eighteen (18) years are not permitted to enter the premises.
 - (2) No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission.
 - g. No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.
 - h. No **Sexually Oriented Business** shall be open for business prior to 10:00am, nor after 10:00pm. However, employees or other agents, or contractors of the business are permitted to be on the premises at other hours for legitimate business purposes such as maintenance, cleanup, preparation, record-keeping and similar purposes.
 - i. The fact that a person possesses other types of state of county permits and/or license does not exempt him from the requirement of obtaining a **Sexually Oriented Business** Special Exception Use Permit.
 - j. It shall be unlawful for an owner or operator of a **Sexually Oriented Business** to allow the merchandise or activities of the establishment to be visible from any point outside the establishment.
 - k. It shall be unlawful for the owner or operator of a **Sexually Oriented Business** to allow the exterior portion of the **Sexually Oriented Business** to have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this ordinance.

Any **Sexually Oriented Business** offering live entertainment shall provide ALL of the following:

- (1) A dressing room for performers with direct access between said dressing area and the performance area or stage, such that the performer may enter the performance area without entering the area from which patrons will view the performance; and
- (2) That the access, performance area or stage and dressing room is handicapped accessible to the extent required by the Americans with Disabilities Act and the Elliot Larsen Civil Rights Act; and
- (3) That all performances shall occur on a stage elevated at least 18" above the immediate floor level and removed at least 6' from the nearest employee or patron; and
- (4) That the dressing area for performers be separate and not freely accessible from areas of the business accessible to patrons, and that the said dressing area contain hot and cold running water and toilet facilities; and

- (5) It shall be the duty of the owners and operator of the premises to ensure that at least one (1) employee is on duty and situated in a Manager's Station at all times that any patron is present inside the premises; and
- (6) The interior of the premises shall be configured in such a manner that there is an unobstructed view from the Manger's Stations of every area of the premises to which any patron is permitted access for any purpose excluding rest rooms. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that said unobstructed view from Manager's Stations remains unobstructed by any doors, walls, merchandise or display racks, or other materials at all time, and also to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the site plan; and
- (7) Rest rooms shall not contain any video reproduction equipment.

D. SEXUALLY ORIENTED BUSINESS PERMIT REQUIREMENTS

It shall be unlawful for a person to operate a **Sexually Oriented Business** without a valid permit. **Sexually Oriented Businesses** shall comply with all the requirements of this Special Exception Use Article and the requirements for Site Plan as set forth in this ordinance; plus

- a. Application for a permit shall be made and delivered to the Montcalm Township Planning Commission by the intended operator and owner, if different, of the establishment. The intended operator must be a person or persons. The applicant shall be required to give the following information on the application:
 1. The name and street address (and mailing address, if different) and driver's license number of the intended operator if he/she has such a driver's license.
 2. The name and address (and mailing address, if different) of the owner(s), if different. All persons having ownership interest shall be listed.
 3. The name under which the establishment is to be established and a general description of the services to be provided.
 4. The telephone number of the establishment or, if unavailable, the operator's.
 5. The address, and legal description of the tract of land on which the establishment is to be located.
 6. The application must be signed by all applicants.
- b. In addition, an applicant of a Live Entertainment Center or adult theater shall provide in the site plan all of the following:
 1. A diagram of the premises specifying the location of manager's stations. (A manager's station shall not exceed thirty-six (36) square feet of floor area.
 2. The location of all overhead lighting fixtures indicating the type of illumination intensity of each such fixture.
 3. Any portion of the premises in which patrons are not permitted.

E. ISSUANCE OF SEXUALLY ORIENTED BUSINESS
SPECIAL EXCEPTION USE PERMIT

The Planning Commission shall approve the issuance of a **Sexually Oriented Business** Special Exception use permit to an applicant within sixty (60) days after site plan review process unless it finds one or more of the following to be true:

- a. An applicant is under eighteen (18) years of age.
- b. An applicant is overdue in payment of taxes, fines, or penalties assessed against him or imposed upon him in relation to a **Sexually Oriented Business**.
- c. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application.
- d. An applicant who has been denied a permit by the Township to operate a **Sexually Oriented Business** within the preceding twelve (12) months, or whose license to operate a **Sexually Oriented Business** has been revoked within the preceding twelve (12) months.
- e. The premises to be used for the **Sexually Oriented Business** has not been approved by the health department for the use intended, if applicable, or any occupancy permit has not been issued by the Montcalm Township Zoning Administrator and Building Inspector or County Building or Inspections Department, if applicable.
- f. The permit fee required by this ordinance has not been paid.
- g. An application for the proposed establishment is in violation of or is not in compliance with any of the provisions of this ordinance.
- h. An applicant had been convicted of any of the following criminal offenses in any jurisdiction:
 1. Prostitution, procuring a prostitute, or solicitation of a prostitute;
 2. Sale, distribution or display of obscene material;
 3. Soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor;
 4. Possession, sale or distribution of child pornography
 5. Public lewdness;
 6. Indecent exposure;
 7. Indecent conduct with a child;
 8. Sexual assault or rape;
 9. Incest;
 10. Sexual solicitation of a child;
 11. Criminal sexual conduct;
 12. Assault with intent to commit any of the above crimes;
 13. An attempt to commit any of the above criminal offenses

The applicant shall certify, as part of the application, that he/she has not been convicted of any one or more of the foregoing criminal offenses.

- a. The permit, if granted, shall state on its face the name of the person or persons

to whom it is granted, and the address of the **Sexually Oriented Business** so that it may be easily read at any time.

- b. The permit and the conditions upon which it was granted shall be limited to twelve (12) months and shall require an annual public hearing to validate compliance with this ordinance. Any use failing to comply with the use as approved may be terminated and the special exception use permit revoked.
- c. In the event that the Planning Commission determines that an application is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within thirty (30) days of the hearing, provided that the application may request, in writing, that such period be extended for an additional period of not more than ten (10) days at any time before the notice is issued in order to make modifications necessary to comply with the ordinance.
- d. The planning Commission may also take all steps necessary to revoke a permit if it determines that a permittee gave false or misleading information in the material submitted during the application process.

F. TRANSFER OF PERMIT

A permittee shall not transfer his permit to another, nor shall a permittee operate a **sexually Oriented Business** under the authority of a permit at any place other than the address designated in the application.

G. INSPECTION

An applicant or permittee shall allow the Township Zoning Administrator and Building Inspector, any Public Safety Officer, any Police Officer, any Sheriff Deputy, and any Michigan State Police Trooper to inspect the premises of a **Sexually Oriented Business** for the purpose of insuring compliance with the law at any time it is occupied or open for business.

H. ACTION TO REVOKE SPECIAL EXCEPTION USE **SEXUALLY ORIENTED BUSINESS** PERMIT

The Township zoning administrator shall take enforcement action, including the commencement of suit seeking revocation of a permit, if any of the following occurs:

- a. A permittee gave false or materially misleading information in the application process.
- b. A permittee has been convicted of using and/or allowing the use of controlled substances within the establishment.
- c. A permittee has been convicted of prostitution or other activities fostering, promoting or otherwise facilitating prostitution within the institution or elsewhere.
- d. A permittee or employee of the **Sexually Oriented Business** has been convicted of any crime of a sexual nature or involving sexual conduct or the solicitation thereof within the establishment or elsewhere.
- e. There has been a transfer of ownership or control of an establishment without the prior consent of the Planning Commission, as required herein.

- f. A permittee has been convicted of knowingly allowing a person under eighteen (18) years of age to enter the establishment.
- g. A permittee has been convicted of any of the criminal offenses listed in sec. 11.03 E.h.

I. LOCATION RESTRICTION

- 1. A **Sexually Oriented Business** may not operate within seven hundred fifty (750) feet of:
 - a. A church, synagogue or regular place of worship;
 - b. A public or private elementary or secondary school;
 - c. A boundary or any residential zoned district;
 - d. Any residential structure within or without a residential zoned area;
 - e. A public Park
 - f. A licensed day-care center or preschool; and/or;
 - g. Another **Sexually Oriented Business**
- 2. Measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a **Sexually Oriented Business** is conducted to the nearest property line of the premises of a public park, or church, synagogue, regular place of worship, or public or private elementary or secondary school or preschool, or licensed day care center, or to the nearest boundary of an affected residential district, or residential structure.
- 3. For the purpose of this section, the distance between any two (2) **Sexually Oriented Business** uses shall be made from the closest exterior wall of the structure in which each business is located.
- 4. A **Sexually Oriented Business** may not be operated in the same building, structure, or portion thereof, containing another **Sexually Oriented Business**.
- 5. **Sexually Oriented Businesses** shall be allowed in the Industrial Zones **only**.

J. NON-CONFORMING USES

A **Sexually Oriented Business** lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the **Sexually Oriented Business** Special Exception Use Permit, of a church, synagogue, or regular place of worship, public or private elementary or secondary school or preschool, licensed day-care center, public park, residential district or residential structure, within seven hundred fifty (750) feet of the **Sexually Oriented Business**. This provision applies only to the renewal of a valid Special Exception Use Permit, and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

SECTION 11.04

SPECIAL EXCEPTION USE APPROVAL PROCEDURE

- A. All applications for special exception uses shall be filed with the Planning Commission and shall include all pertinent plans, specifications and other data upon which the applicant intends to rely for a special exception use permit, as well as a fee as set by the Township Board to defray the cost of special exception use review and approval. The applicant shall also file with the Planning Commission the necessary fee and all Necessary documents, drawings, plans, specifications and other information for site plan review pursuant to Article XA. The Planning Commission may pursue site plan review procedure, pursuant to Article XA, prior to, or at the same time as, Special Exception Use approval procedure.
- B. The Planning Commission shall, upon receipt of the fee and the application in proper form and accompanying plans, specifications, and other data, schedule and hold a public hearing upon the request, preceded by notice of the special land use request and public hearing thereon. One (1) such notice shall be published in a newspaper which circulates in the township and shall be sent by mail or personal delivery to the owners of the property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. Such notice shall be given not less than five (5) nor more than fifteen (15) days before the date of the public hearing.
- C. Following such public hearing, the Planning Commission shall, within sixty (60) days, deny, approve or approve with conditions the request for special land use approval, and shall prepare a written statement of the basis and reasons for its decision in the matter. In addition, any conditions upon which any such permit is granted shall be specified in detail by the Planning Commission in its written statement. The written statement, including all conditions, shall be filed with the Planning Commission and a copy thereof shall be filed with the zoning administrator. No special exception use shall be approved or approved with conditions until an appropriate site plan approval has been granted by the Planning Commission for the concerned premises and use.
- D. All conditions upon which any such special exception use permit is granted shall be specified in detail, shall be reasonable and shall be:
 1. Designed to protect and conserve natural resources and energy.
 2. Designed to protect the health, safety and welfare and the social and economic wellbeing of the owners and occupants of the land in question, of the area adjacent thereto and of the community as a whole.
 3. Designed to insure compatibility with adjacent uses of land and the natural environment.
 4. 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.
 5. A valid exercise of the police power.
 6. Related to the purposes, which are affected by the proposed use or activity.
 7. Consistent with the intent and purpose of the Zoning Ordinance.

8. Designed to insure compliance with the general and specific standards established in this ordinance for consideration of the proposed land use or activity.
9. Designed to promote the use of land in a socially and economically desirable manner.

The conditions upon which a special exception use approval is based shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. If any such conditions are thereafter changed, the Planning Commission shall maintain a record of such changed conditions and shall provide the Zoning Administrator with a copy thereof.

- E. The planning Commission shall have the right to limit the duration of a special exception use where the same is of a temporary nature. The Planning Commission may reserve the right to periodic review of compliance with the use as approved and with any conditions imposed upon such use. Any use failing to comply with the use as approved or with any conditions imposed upon such use may be terminated, and the special exception permit revoked, by action of the Planning Commission after a hearing upon application of any aggrieved party. Notice of such hearing shall be posted on the premises, shall be mailed to the last known address of the assessed owner of the premises, and shall be published once in a newspaper which circulates in the township.
- F. Any property which is the subject of a special exception permit which has not been used for a period of one (1) year, without just cause being shown which is beyond the control of the owner and which is acceptable to the Planning Commission, for the purposes for which such special exception was granted shall thereafter be required to be used for only permissible uses set forth in the particular zoning classification and the permit for such special exception uses shall thereupon terminate.
- G. To insure compliance with this Zoning Ordinance and any conditions imposed on a special exception use by the Planning Commission, the Planning Commission may require a cash deposit, certified check or irrevocable bank letter of credit or surety bond covering the estimated costs of features or actions associated with a project which are considered necessary by the Planning Commission to protect natural resources, or the health, safety and welfare of the residents of the township and future users or inhabitants of the proposed project or project area, to insure faithful completion of said features or actions. Such security shall be deposited with the Montcalm Township Treasurer at the time of the issuance of the permit authorizing the commencement of such construction, activity or use. Where the features or actions required will take more than six (6) months to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

ARTICLE XI-A
PLANNED UNIT DEVELOPMENTS

SECTION 11A.01
PURPOSE

The purpose of these regulations providing for planned unit developments, hereinafter called PUDs, is to:

- A. Permit flexibility in the regulation of land development.
- B. Encourage innovation of land use and variety in design, layouts and type of structures constructed.
- C. Achieve integration of the proposed land development project with the characteristics of the project area.
- D. Achieve economy, and efficiency in the use of land, natural resources, energy and the provision of public services and utilities.
- E. Encourage useful open space.
- F. Provide better housing, employment and shopping opportunities particularly suited to the needs of the residents of the township.
- G. Provide more creative and imaginative design in the development of residential, commercial industrial areas than is generally possible under conventional zoning regulations.
- H. Promote more economic and efficient use of the land while providing a harmonious variety of housing choices.
- I. Provide for the integration of necessary commercial and community facilities and the preservation of open space for Park and recreational use.
- J. Encourage underground utilities which can be more efficiently designed when master planning a larger area.
- K. Allow phased construction with the knowledge that subsequent phases will be approved as originally planned and approved by the township.
- L. Permit planned diversification in the location of structures.
- M. Combine and coordinate architectural styles, building forms and building relationships within the PUD.
- N. Insure a quality of construction commensurate with other developments within the township.
- O. Provide more desirable living, shopping and working environments by preserving as much of the natural character of the property as possible.
- P. Allow multiple buildings, structures and uses within a single area, or on a single lot.
- Q. Provide for cluster or group development compatible with, and in furtherance of, the purpose and objective of this Zoning Ordinance.

SECTION 11A.02
NATURE AND REQUIRED INFORMATION

- A. PUDs shall be considered and recognized as special exception uses and shall be subject to all of the provisions and requirements of Article XI, as well as all of the provisions and requirements of this Article. PUDs shall be subject to all of the standards and other provisions of Section 11.01. PUDs approval procedure shall be subject to all of the provisions and requirements of Section 11.04 including site plan review procedure and building permit procedure. PUD review shall be carried out by the Planning Commission.
- B. In addition to the information required in Article XA, Section 10A.01, Paragraph C, a site plan review application for a PUD shall contain the following information:
1. Principal ties to the neighborhood and community with respect to transportation, water supply and sewage disposal.
 2. General description of the provision of community facilities and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.
 3. Evidence that the proposal is compatible with the objectives of the community's plan.
 4. A general statement as to how common open space and utilities are to be owned and maintained.
 5. The overall objectives of the PUD.
 6. The source of financing and statement of total estimated development cost of each stage.
 7. The number of acres or square feet allotted to each proposed use and gross area in buildings, structures, parking, public or private streets and drives, necessary yards, common open space areas and buffer strips.
 8. The period of time in which each phase of the project will be completed.
 9. The nature and development of proposed staging of the project, if any.
 10. The ratios of area devoted to each intended use and parking ratios to square footage of buildings and structures.
- C. In addition to the information required in Article XA, Section 10A.01, Paragraph D, a site plan for a PUD shall contain the following information:
1. Delineation of the various residential, commercial and industrial areas indicating for each such area size, number of buildings, composition in terms of total number of dwelling or other units, approximate percentage allocation by unit type and calculation of the net residential density, commercial density and industrial density.
 2. The interior open space system.
 3. A location map showing uses and ownership of abutting lands and nearby streets, subdivisions, utilities, easements and public facilities and service.
 4. Buffer strips.
 5. Natural characteristics and vegetation.
 6. Ditches, water courses and flood plains.
 7. The type of construction and materials to be used in the proposed buildings and structures.

8. Design and elevation sketches and general specifications for buildings and structures.
9. Nature and location of soil types and areas with moderate or high susceptibility to erosion; and
10. The site plan shall show the intended total project. If the development is to be constructed in phases a general indication of how the sequence of phases is to proceed shall be identified.

SECTION 11A.03
REQUIREMENTS

- A. The only uses of the land, buildings or structures allowed in a proposed PUD shall be the uses allowed in the zoning district in which the PUD is located, including any special exception uses allowed in such zoning district pursuant to Article XI, Section 11.02. However, a combined residential-commercial PUD shall be allowed in districts RA and RB if and only if the commercial area of the PUD is less than ten percent (10%) of the total area of the PUD.
- B. The minimum area required to qualify for PUD approval shall not be less than ten (10) contiguous acres of land.
- C. The tract of land for a PUD must be either in one ownership or the subject of an application filed jointly by the owners of all properties included (the holder of a written option to purchase land or the holder of an executory land contract shall, for the purpose of such application, be deemed to be an owner of such land). The entire tract of land shall be developed as a single, integrated development.
- D. Where a PUD is to be developed in phases, all phases shall be simultaneously subject to application, review and determination.
- E. The maximum number of dwelling units permitted within a PUD shall be determined by dividing the residential PUD area by the minimum residential lot area per dwelling unit required by the district in which the PUD is located. In the event the PUD lies in more than one (1) zoning district, the number of dwelling units shall be computed for each district separately. In addition, up to ten percent (10%) additional dwelling units may be permitted if to do so would encourage the purpose of the PUD.
- F. The minimum set-back and yard distances may be reduced for a PUD, where to do so would encourage the purpose of the PUD but by no more than ten (10) percent below that required in the district in which the project is located.
- G. Within every PUD there shall be planned and set aside permanently as part of the total development an amount of open space equal to not less than ten (10) percent of the total area of the PUD. Before accepting open space as meeting the requirements of this provisions, the Planning Commission must find the land thus designated to be:
 1. Sufficient in size and suitably located with adequate access.
 2. Arranged so as to provide access and benefit to the maximum number of dwelling units or other units within the PUD; and
 3. That evidence is given that satisfactory arrangements will be made for the maintenance of such designated land to relieve the municipality of future maintenance thereof.

4. No building or structure, or any part thereof, shall be erected or altered within a PUD to a height exceeding two and one-half (2 ½) stories not to exceed twenty-eight (28) feet.
5. A screening area or buffer strip may be required along the perimeter of the development if deemed necessary or beneficial to adjoining properties.
6. Any provision allowed by this Article for a PUD, but prohibited elsewhere in this Zoning Ordinance, shall be deemed to be acceptable within the zoning district for the PUD and a variance thereof shall not be required.

SECTION 11A.04
REVIEW PROCEDURE

- A. PUD review and approval procedure shall follow the provisions and requirements of Section 11.04 and the Planning Commission may approve, deny or approve with conditions the request for a PUD. In addition to the standards found in Section 11.01, the Planning Commission shall consider the following standards in reviewing a proposed PUD:
 1. Adequacy and arrangement of vehicular traffic, access and circulation including intersections, road widths, channelization, traffic controls and pedestrian movement.
 2. Location, arrangement, appearance and sufficiency of off-street parking.
 3. Location, arrangement, size and entrances of buildings, walkways and lighting.
 4. Relationship of the various uses to one another.
 5. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and noise-deterring screen between adjacent uses and adjoining lands.
 6. In the case of residential uses, the adequacy of usable open space for playgrounds and recreation.
 7. Adequacy of water supply, storm sewer and sanitary waste disposal facilities.
 8. Adequacy of structures, roadways and landscaping in the areas with moderate to high susceptibility to flooding, ponding or erosion.
 9. Compatibility of adjoining uses on and off the site and preservation thereof; and
 10. Compliance with other regulations, standards, provisions and purposes of this Zoning Ordinance.
- B. No PUD shall be approved or approved with conditions until an appropriate site plan approval has been granted by the Planning Commission for the concerned premises and use.
- C. In a phased PUD, the Planning Commission may leave the timetable for development of future phases to the discretion of the developer or may issue requirements and specific timetables for the development of future phases, in which case such requirements and timetables shall be considered conditions upon which the PUD approval is granted. The Planning Commission may approve, deny or approval with conditions some or all of the future phases of a phased PUD at the time of their initial determination as to each future phase of the PUD before its development, construction or implementation.

ARTICLE XII
ADMINISTRATION AND ENFORCEMENT

SECTION 12.01
ADMINISTRATION

The township Board shall employ a Montcalm Township Zoning Administrator to administer this Ordinance. The term of employment and rate of compensation and any other conditions of employment shall be established by the Township Board.

For the purpose of this Ordinance, the Zoning Administrator shall have the power of a police officer.

SECTION 12.02
DUTIES OF THE ZONING ADMINISTRATOR

The office of the Zoning Administrator is hereby established. This Ordinance shall be enforced by the Zoning Administrator who shall have the power to issue permits and certificates as required herein and shall at times have the power to make an inspection of building or premises necessary to carry out his duties; provided, that he shall in no case issue any permits or grant any certificates where the proposed building, alteration or use would be in violation of any provision of this Ordinance except under written order of the Township Board.

- A. Violations: The Zoning Administrator shall investigate any alleged violation of the Zoning Ordinance coming to his attention.
- B. Inspections: The Zoning Administrator may inspect all new construction or alterations at the time footings are completed and at the completion of the construction or alteration authorized. He shall make such additional inspections he deems necessary to insure compliance with the provisions of this Ordinance.
- C. Records: The Zoning Administrator shall keep records of all inspections, applications, permits and special conditions, involved. He shall file and safely keep copies of all plans and fees submitted with applications. The same shall form a part of the records of his office and shall be available to the Township Board and all other officials of the Township.

SECTION 12.03
VIOLATION AND PENALTY

Any person who shall violate any of the provisions of this Ordinance or fail to comply with any of the requirements thereof or who shall erect, alter, enlarge or move any building or who shall put into use any property in violation of any detailed statement of plan submitted hereunder, or who shall refuse a reasonable opportunity to inspect any premises, shall be guilty of a misdemeanor. Each and every day such violation continues shall be deemed a separate and distinct violation.

The owner of any building or land where anything in violation of this Ordinance shall be placed or shall exist, and any architect, builder, contractor, agent or person employed in connection therewith and who assists in the commission of such violation shall each be guilty of a separate violation.

ARTICLE XIII
BOARD OF APPEALS

SECTION 13.01
MEMBERSHIP AND APPOINTMENT

Pursuant to the Township Rural Zoning Act, as amended, there shall be established a Board of Appeals of five (5) members appointed by the Township Board. Four (4) members of the Board shall be selected from electors living within the unincorporated areas of the township. One (1) such member may be a member of the Township Board. All such members shall be representative of the population distribution and of the various interests present in the township. The fifth (5th) member of the Board shall be a member of the Montcalm Township Planning Commission. The Board shall elect its chairperson, vice-chair person and secretary from its membership. An elected officer of the township shall not serve as chairperson of the Board. An employee or contractor of the Township Board may not serve as a member or an employee of the Board.

Terms of office shall be overlapping and shall be for three (3) years, running from January 1 of the year appointed, except for members serving because of their membership on the Planning Commission or Township Board, whose term shall be limited to the time they are members of the Planning Commission or Township Board, respectively, and the period stated in the resolution appointing them. Vacancies shall be filled by appointment for unexpired terms.

SECTION 13.01-A
QUORUM

A majority of the members of the Board must be present to conduct business.

SECTION 13.02
GENERAL GRANT OF POWER

The Board of Appeals shall act upon all questions as they may arise in the administration of the Zoning Ordinance, including the interpretation of zoning maps, and may fix rules to govern its procedures sitting as a Board of Appeals. It shall hear and decide appeals from and review any order, requirements, decisions or determination made by an administrative official or body charged with enforcement of this Ordinance. It shall hear and decide all matters referred to it or upon which it is required to pass under this ordinance, except that no appeal with regard to special exception uses or PUDs shall be taken to, heard, or decided by the Board.

SECTION 13.03
EMPLOYEES

The Board may employ clerical or other assistance as may be necessary, provided that it shall not at any time incur any expense beyond the amount made available for that purpose.

SECTION 13.04
MEETINGS

Meetings of the Board of Appeals shall be held at the call of the Chairman and at such times as the Board may determine for the efficient conduct of its business. All meetings shall be open to the public.

SECTION 13.05
APPEALS

Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the township, county, or state. A notice of appeal, specifying the grounds thereof, shall be filed with the secretary of the Board of Appeals within thirty (30) days after the date of the action, which is being appealed. A copy of the notice shall promptly be served upon the officer from whom the appeal is taken who shall forthwith transmit to the Board all records upon which the action appealed from was taken. An appeal shall stay all proceedings, decisions or orders unless said officer certifies to the Board that a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except upon a restraining order by the Board or by the Circuit Court.

SECTION 13.06
VARIANCES

Subject to the restrictions of Section 13.07 of this Ordinance, and in addition to other duties and powers specified herein, the Board, after public hearing shall have the power to decide applications for variances:

- A. Where it is alleged that there is error or misinterpretation in any order, requirement, decision or refusal made by the Zoning Administrator or other administrative agency of the municipality in the carrying out of the provisions of this Ordinance; or
- B. Where it is alleged that by reason of the exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or other extraordinary situation of the land or building or of the use of property immediately adjoining the property in question, the literal enforcement of this Ordinance would involve practical difficulties or would cause undue hardship provided that the Board shall not grant a variance on a lot if the owner or members of his family own or owned adjacent land which could, without undue hardship, be included as part of the lot, or
- C. Where it is alleged that there is practical difficulty or unnecessary hardship on carrying out the strict letter of this Ordinance and request made to vary such regulations, so that the spirit of this Ordinance shall be observed, public safety secured and substantial justice done.

SECTION 13.07
VARIANCES PROHIBITED

No Variance in the provision or requirements of this Ordinance shall be authorized by the Board unless the Board finds from reasonable evidence that such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of this Ordinance or of the public health, safety and welfare, and further that two (2) of the following facts and conditions exist:

- A. That there are exceptional or extraordinary circumstances or conditions applying to the specific property that do not apply generally to other properties in the same zone.
- B. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the zone provided that increased financial return shall not be deemed sufficient to warrant a variance.
- C. That the condition or situation of the specific property or the intended use is not of so general or recurrent a nature as to make reasonably practical a general regulation as part of this Zoning Ordinance.

SECTION 13.08
PUBLIC HEARINGS

Upon the filing of any appeal or other matter over which the Board has jurisdiction, the Board shall hold a public hearing on such matter within a reasonable time.

Notice of the time, place and purpose of this shall:

- A. Be published twice by the Board in a newspaper of general circulation in the county at least fifteen (15) days prior to the hearing.
- B. Be given to the applicant and to the persons to whom real property within three hundred (300) feet of the premises in question is assessed and to the occupants of single and two-family dwellings within three hundred (300) feet, the notice to be delivered personally or by first class mail, addressed to the respective applicant, owners and tenants at the respective addresses given by the Board at least fifteen (15) days prior to the hearing

SECTION 13.09
DECISIONS

The Board shall render its decision upon such appeal within sixty (60) days after the hearing and upon failure to do so, such appeal shall be deemed to be decided adversely to the applicant in the same manner as though the Board had rendered its decision to that effect. In rendering its decision on an appeal, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the administrative official or body as in its opinion ought to be made in the premises, and to that end shall have all the powers of the administrative official or body from whom the appeal was taken and may issue or direct the issuance of a permit. The concurring vote of a majority of the members of the Board of appeals

shall be necessary to reverse an order, requirement, decision, or determination of the Administrative official or body, or to decide in favor of the applicant any matter upon which they are required to pass under or to effect any variation in this ordinance. The Board shall state the grounds of each determination.

Further, the Board shall have the authority to attach conditions to its decision. All such conditions shall be specified in detail and shall be in accordance with Paragraph D of Section 11.04. Also, the Board shall have the right to limit the duration of effectiveness of its decision or the granting of any variation in this Ordinance, where the need therefor is of a temporary nature.

Any use, construction, building or development failing to comply with the decision of the Board and any conditions attached thereto may be terminated, and the decision or variance revoked, by action of the Board after a hearing upon application of any aggrieved party. Notice of such hearing shall be posted on the premises, shall be mailed to the last known address of the assessed owner of the premises, and shall be published once in a newspaper, which circulates in the Township.

SECTION 13.10 FEES

Upon the filing of any appeal or application to the Board, applicant shall pay the fee per schedule set by the Township Board, and available to the public at all times from the Zoning Administrator.

SECTION 13.11 TIME LIMIT

If the variance is granted or other action by the applicant is authorized, the necessary permit shall be secured within three (3) months after the date the variance is granted, and the structure or alteration shall be started within twelve (12) months of the date the variance is granted.

The Board may, upon application stating the reasons therefore, extend either the three (3) or twelve (12) month periods, but if the Board finds no good cause for the failure to act or complete within such periods and if the Board further finds that conditions have altered or changed in the interval since the action was granted, the Board shall revoke or rescind its approval. Should the applicant fail the necessary permit within a three (3) month period, it shall be conclusively presumed that the applicant has waived, withdrawn and abandoned his appeal and all permissions, variances and permits shall be deemed automatically rescinded.

SECTION 13.12 MINUTES AND RECORDS

The secretary shall keep minutes of the Board proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact. The secretary shall keep records of the Board's official actions, all of which shall be filed, a copy to the Township Clerk and be a public record.

ARTICLE XIV
SEPARABILITY

SECTION 14.01

In case any section or provision of this Ordinance shall be held invalid in any court, the same shall not affect any other Article, Section, or Provision of this Ordinance, except so far as the Article, Section or portion so declared invalid shall be inseparable from the remainder or any portion thereof.

ARTICLE XV
DEFINITIONS

SECTION 15.01

For the purpose of this Ordinance certain terms are here within defined:

Accessory Building:

A subordinate structure on the same premises with a main building occupied or devoted to an accessory use. Where an accessory building is attached to a main building such accessory building shall be considered part of the main building.

Accessory use:

A use naturally and normally incidental and subordinate to a principal use on the same premises.

Alley:

A dedicated public way other than a street, which provides only secondary access to abutting property and is not intended for general traffic circulation.

Alteration of Building or Structure:

A change in the supporting members of a building or structure; an addition to or diminution of the exterior dimensions of a building or structure; a change in use or conversion of a building or structure from one (1) location to another.

Animal Unit:

A unit of measure used to compare differences in the production of animal waste produced on a regular basis, with a slaughter steer or heifer equal to one (1) animal unit and the following equivalencies applicable to other livestock:

Slaughter Steer/Heifer	1.00 animal units	(all cattle)
Horses	2.00 animal units	
Mature Dairy Cows	1.40 animal units	
Swine	.40 animal units	
Sheep or Goats	.10 animal units	
All fowl	.05 animal units	

Automobile Sales area:

An area used for display, sale or rental of new or used motor vehicles or trailers in operable condition where no repair work is done.

Automotive Repair Shop:

A garage, building or area used for the repair of automobiles for a fee.

Basement or Cellar:

A story having part, but no less than one-half of its height below finished grade.

Board:

Whenever the word “Board” is used, it refers to the Board of Appeals.

Boarding House or Rooming House:

A dwelling having one kitchen and used for the purpose of providing meals and/or lodging for compensation to more than two (2) persons other than the members of the family occupying the dwelling.

Buffer Strip:

An area of land used for the purpose of screening or separating adjoining lands or adjacent uses, structures or developments. The buffer strip may include open area, manmade screening, structures or landscaping, or natural vegetation or characteristics.

Building:

Any structure either temporary or permanent, having a roof and used or built for a shelter of or enclosure of persons, animals, chattels or property of any kind. This shall include tents, awnings, mobile homes, vehicles whether mounted or not on wheels and situated on private property and used for purposes of a building.

(1) Building, Height of:

The vertical distances from the established grade at the center of the front of the building to the highest point of the roof surface if a flat roof, to the deck line for mansard roofs, and to the main height level between eaves and ridge for gabled, hip and gambrel roofs.

(2) Building Permit:

The building permit issued by the Montcalm Township Zoning Administrator pursuant to this Zoning Ordinance is separate and distinct from any other permit issued pursuant to any other statute, ordinance, regulation or building code.

Campground:

Facilities as approved by the State Board of Health with provisions for two (2) or more camping units. “Camping Areas” shall mean the same.

Commercial Stock yard:

Any place of business whose primary business purposes and functions are the purchase and sale of any and all kinds of farm livestock, the care and feeding of any such livestock being incidental and necessary only to carry out the prime purpose and functions of such business.

Communication Tower:

A radio, telephone, cellular telephone relay structure of skeleton framework, or monopole attached directly to the ground or to another structure, used for transmission or reception of radio, telephone, cellular telephone, television, microwave, or any other form of telecommunication signals.

Commercial Facility:

Any business located on a parcel of land which is used for a commercial use in compliance with this zoning ordinance, excluding however nonconforming uses and home occupations.

Disaster:

A destructive occurrence such as fire, flood, tornado, ice or wind.

Dwellings or Apartments:

A building designed or used as the residence or sleeping place for one or more persons, including one (1) family, two (2) family and multiple dwellings, apartments hotels, hotels, mobile homes, boarding and lodging houses, but not including motels, tourist cabins or trailers.

(1) One family dwelling:

A dwelling occupied by but one (1) family and so designed and arranged as to provide living, cooking and kitchen accommodations for one family only.

(2) Two family dwelling:

A dwelling occupied by but two (2) families and so designed and arranged as to provide independent living, cooking and kitchen accommodations for two (2) families only.

Dwelling Unit:

One or more rooms designed for or occupied by not more than one (1) family.

Erection:

Includes new building or construction; reconstruction that changes the exterior dimensions of a building or structure; moving upon or any physical operations on the land required for a building or structure; and any excavation, fill, drainage and the like required for a building or structure.

Engineer:

The county Road Commissioner or an Engineer appointed by the Township Board.

Essential Service:

The erection, construction, alteration or maintenance by private companies or municipal departments of public utilities including gas, electrical, steam, communication, safety, water supply and distribution systems, sanitary sewer and storm water systems.

Established Grade:

The evaluation of the sidewalk grade and fixed by the Township Zoning Administrator, or where no sidewalk is to be constructed on the premises, a point on the surface of the ground appropriate to the terrain, said point to be determined by the Zoning Administrator.

Family:

A head of a household, his or her spouse, children or legal wards living together in a dwelling as a single housekeeping unit.

Farm:

Any parcel of land containing at least twenty (20) acres which is used for the raising of agricultural products, livestock, poultry, or dairy products for gain and uses shall be subordinate to normal agricultural use. Farm includes a farm dwelling and necessary accessory farm structures within the property boundaries and storage of equipment used in the farming operations. Farm does not include Intensive Livestock Operations (ILO) as defined in this ordinance.

(1) Farm Buildings:

Any building or structure, other than a dwelling, moved upon, maintained, used or built on a farm, which is essential and customarily used on farms in the pursuit of agricultural activities.

(2) Farm Dwellings:

Any dwelling located on a farm as defined by this ordinance and occupied as the home, residence, or sleeping place of the owner/operator, manager, or tenant farmer of that farm.

Floor Area:

The area of all floors computed by measuring the dimensions of the outside walls in a building excluding attic and basement floors, porches, patios, terraces, breezeways, carport, veranda, decks and garages.

Flood Plain:

All area adjoining a lake, river or creek or a channel, which are subject to inundation at the highest known flood water level.

Garage, Private and commercial:

(1) A private garage is any building or part thereof, not over one (1) story of fifteen (15) feet in height for storage of a motor vehicle or trailer coach where no servicing for profit is conducted.

(2) A commercial garage is any garage other than a private garage.

Garage Sales:

Includes yard sales, moving sales and similar sales of personalty, but does not include such sales of personalty from single premises no more than two (2) times per year.

Highways:

Any public thoroughfare in the Montcalm Township road system, including Federal and State roads and highways where and whether of depressed surface or elevated construction.

Institutional or Public Uses:

Churches, schools, teaching academic subjects, hospitals, convalescent or nursing homes, Parks, civic centers, libraries and other public or quasi-public uses.

Industrial Facility:

Any business located on a parcel of land which is used for an industrial use in compliance with this zoning ordinance, excluding however nonconforming uses and home occupations.

Intensive Livestock Operations: (ILO)

Any feed lot, piggery, dairy or poultry operation, or other livestock raising, breeding, or feeding facility or operation containing a total of seven hundred fifty (750) animal units or more. See animal unit definition.

Institutional Facility:

Any business located on a parcel of land, which is used for an institutional use in compliance with this zoning ordinance, excluding however nonconforming uses and home occupations.

Junk or salvage yards:

An open area used for collection, storage, dismantling, display, resale, exchange, bailing, cleaning or handling of second hand, salvaged or used materials, machinery, vehicles, trailer, equipment, furnishings, or part thereof, but excluding automobile, boat or trailer sales areas and similar uses carried on in completely enclosed buildings.

Kennel:

Any lot or premises used for the sale, boarding, breeding or treatment of dogs, cats, or other household pets.

Lodging House:

Primarily a family dwelling where lodging with or without meals is furnished on a weekly or monthly basis to three or more persons who are not members of the family occupying and operating the premises, but not necessarily to anyone who may apply.

Lot:

A parcel of land adjoining a dedicated street but exclusive of any adjoining street right-of-way or legal easement, and separated from other parcels by legal description, deed or subdivision plat. A condominium unit is not a lot or parcel as those terms are used in this ordinance.

(1) Lot, corner: A lot situated at the intersection of two or more streets.

(2) Lot Line: Lines bounding a lot as herein described.

Mobile Home:

A prefabricated unit used, designed and furnished as living quarters.

Mobile Home Park:

Any site, lot, field, tract or parcel of land which is utilized by two (2) or more occupied Mobile Homes either free of charge or for revenue purposes and shall include any building, structure, vehicle or enclosure used or intended for use as a part of the equipment of such mobile home park.

Motel:

A building made up of two (2) or more separate living or sleeping quarters used independently of each other and used principally overnight accommodations.

Non-Conforming Use:

A use that is lawfully exercised within a structure or on land at the time of adoption of this ordinance, or any amendment thereto, and which does not conform with the regulations of the district in which it is located.

Off-site sign:

A sign advertising something other than the facility which is located on the same parcel of land as the sign.

Open Space:

A unified, usable area or areas of sufficient size, shape and location to provide recreational opportunities, either active or passive, for residents of the township and/or the Planned Unit Development. Examples of Open Space Areas include: open fields, wooded areas, streams, ponds landscaped areas, and recreational facilities (i.e. tot lots, ball fields, swimming pools, tennis courts, golf courses, etc.). That area used for public or private streets, roads, drives, easements, right-of-ways, walk-ways, loading areas, parking lots, buffer strips, necessary yards and buildings or structures shall not be used to comprise the required open space.

Ownership:

Ownership by one (1) person or by two (2) or more persons jointly, as tenants by the entirety, or as tenants in common, of a separate parcel of real estate or real property not adjacent to land in the same ownership.

Parking Area:

An area used for the parking of motor vehicles for a fee or as an accommodation for clients, customers, residents, or employees.

Planning Commission or Commission:

The Montcalm Township Planning Commission.

Portable signs:

Signs not permanently attached to the ground, building or structure.

Principal on-site sign:

A sign advertising the name of the facility which is located on the same parcel of land as the sign.

Principal Use or Main Use:

The primary or predominant use of the premises.

Person:

A firm, association, partnership, corporation or other legal entity or an individual.

Public Utility:

Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under municipal regulation to the public, transportation, water, gas, electricity, phone, steam, telegraph or sewage disposal.

Restaurant:

A business located in a building or structure wherein in consideration of the payment of money, meals are habitually prepared, sold and served to persons for consumption on or off the premises, having suitable kitchen facilities connected therewith, containing conveniences of cooking an assortment of foods which may be required for ordinary meals, and deriving the major portion of its receipts from the sale of food.

Retail Commercial Establishment:

A store, Market or shop in which commodities are sold or offered for sale in small or large quantities to the retail trade. Grocery and general stores, meat markets, public garages, automobile service stations are included in this classification.

Roadside Stand:

A farm structure used or intended to be used solely by the owner or tenant of the farm on which it is located for the sale of only the seasonal farm products of the immediate locality in which the roadside stand is located.

Screen (screened, screening):

A natural compact planting area of evergreen or shrubbery which maintain their density and screening effect throughout the calendar year, not less than four (4) feet in height at the time of planting and maintained in a neat and attractive manner, or an artificial wall or fence of sufficient density or compactness to provide a solid screening effect, not less than five and one-half (5 ½) feet in height from the ground level and no more than ten (10) feet in height and maintained in a neat and attractive manner.

Secondary on-site sign:

A sign advertising a service or product available at the facility located on the same parcel of land as the sign.

Set Back Lines:

Lines established adjacent to highways for the purpose of defining limits within which no building or structure or any part thereof shall be erected or permanently maintained.

“Within set line” means between the set back line and the highway right-of-way.

Service Station or Filling Station:

A place where fuel or lubricating oils for motor vehicles are offered for sale at retail to the public, including sale of accessory and minor repair service but not including major automotive repairs.

Sign:

Any announcement, declaration, illustration or insignia used to advertise or promote the interests of any person, product or project when the same is placed, painted or displayed out of doors in view of the general public.

Sign Area:

Total surface area of a sign. In case of signs having two sides back to back, the sign area shall be the total surface area of one side of the sign.

Story:

The portion of a building included between the surface of any floor and the surface of the floor above it; where there is no second floor, then “story” means the space between the floor and the ceiling next above it.

(1) Story, Half:

A story which is situated within a sloping roof, the area of which at a height of four (4) feet above the floor does not exceed two-thirds (2/3) of the floor area directly below it, wherein living quarters are used only as a part of the dwelling situated in the story below.

Street:

A right-of-way which has been dedicated for the purpose of providing access to abutting private lots of land, including the space for pavement and sidewalks.

(1) Major Street: A federal, State or County designated road or street.

(2) Minor or local Street: Any street or highway that is not a Major Street.

Structure:

Anything constructed or erected which requires permanent location on the ground or attachment to something having such location. Further, an open deck with no roof if attached to the principal building on the premises and an open porch with no roof if attached to the principal building on the premises shall not be considered to be structures.

Swimming Pool:

A constructed basin or structure for the holding of water for swimming and aquatic recreation. Swimming pool does not include plastic, canvas or rubber portable pools temporarily erected upon the ground holding less than three hundred (300) gallons of water.

Tent:

As employed by this Ordinance, the term “tent” shall include any tent used solely for children’s recreational purposes.

Terms:

The present tense shall include the future.

The singular number shall include the plural; and the plural the singular.

The word “shall” is always mandatory. The words “zone” and “district” are the same.

Reference to a whole shall apply to a part thereof. Any word or term not defined herein shall be used with a meaning of common utilization.

Thoroughfare:

Any roadway, whether public or private.

Township Board:

The governing body of the Township, presently the Montcalm Township Board.

Trailer Coach Parks:

Trailer Coach Park shall mean the same as Mobile Home Park.

Wastewater Treatment Plant Residuals:

Waste or sludge from sanitary sewer systems, whether residential, commercial, or industrial, septic tanks, cesspools, and/or sewage pits, whether or not the same have been stabilized by chemical or biological processes at a wastewater treatment plant to reduce pathogen in accordance with the Michigan Department of Natural Resources regulations.

Wireless Communication Facilities:

Shall mean and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, and private and commercial mobile radio service facilities; not included within this definition are citizen band radio facilities, short-wave receiving facilities, radio and television broadcast reception facilities, federally licensed amateur (ham) radio facilities, satellite dishes and governmental facilities that are subject to state or federal law or regulations which pre-empt municipal; regulatory authority.

Yard:

A space open to the sky and unoccupied or unobstructed except by encroachments specifically permitted under Section 1A.06. Said space shall be measured commencing at the appropriate stated lot lines.

- (1) Yard, Front: A yard extending across the full width of the lot between the front lot line and the nearest line of the main building.
- (2) Yard, Rear: A yard extending across the full width of the lot between the rear lot line and the nearest line of the main building.
- (3) Yard, Side: A yard extending from the front yard to the rear yard between the side lot line and the nearest line of the main building or of accessory buildings attached thereto.

Zoning Administrator:

The person or persons appointed by the Township Board to administer this Ordinance.

ARTICLE XVI
AMENDMENTS

SECTION 16.01
AMENDMENTS

- A. Any interested person or public agency may make written request to the Township Board for an amendment to this Zoning Ordinance. If said request shows just cause for consideration, the Township Board will forward the request to the Planning Commission for study and report within a specified period of not less than sixty (60) days. The Planning Commission shall:
1. Hold not less than one (1) public hearing, notice of which hearing shall be given by two publications in a newspaper of general circulation in the township, the first to be printed not more than thirty (30) days nor less than twenty (20) days and the second not more than eight (8) days before the date of the hearing. Not less than twenty (20) days notice of the time and place of the hearing shall also be given by mail to each electric, gas, pipeline and telephone public utility company, and to each railroad operating within the district or zone affected, that registers its name and mailing address with the Township Planning Commission for the purpose of receiving the notice. An affidavit of mailing shall be maintained. The notices shall include the Places and times at which the tentative text and any maps of the zoning ordinance may be examined.
 2. If an individual property or several adjacent properties are proposed for rezoning, give a notice of the proposed rezoning to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all single and two-family dwellings within three hundred (300) feet. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known the term "Occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission before the hearing. The notice shall be made not less than eight (8) days before the hearing and shall state the time, place, date and purpose of the hearing.
 3. Collect a fee from the applicants sufficient in amount to cover the expenses of said notices and hearing.
 4. Hold such public hearing, receiving all comments and reports requested or noting the absence of such.
 5. Submit the proposed Zoning Ordinance Amendment to the appropriate County Commission or Committee, unless the County Board or Commissioners have waived County review of Township Zoning Ordinance Amendments.
 6. Transmit a summary of comments received at the public hearing and the proposed Zoning Ordinance Amendment to the Township Board.

- B. The Township Board may hold additional hearings if it considers necessary. Notice of a public hearing held by the Township Board shall be published in a newspaper which circulates in the township. The notice shall be published not more than fifteen (15) days or less than five (5) days before the hearing.
- C. If the Township Board considered amendments, changes, additions or departures advisable to the proposed Zoning Ordinance Amendment it shall refer the same to the Planning Commission for a report thereon within a time specified by the Township Board. After receiving the report the Township Board shall grant a hearing on the proposed Zoning Ordinance Amendment to a property owner who by certified mail addressed to the clerk of the Township Board requests a hearing and the Township Board shall request the Planning Commission to attend the hearing.
- D. At a regular meeting or at a special meeting called for that purpose the Township Board may adopt the proposed Zoning Ordinance Amendment with or without amendments, changes, additions or departures that have been previously considered, and may give the ordinance immediate effect.
- E. Any Zoning Ordinance Amendment adopted by the Township Board shall be filed with the Township Clerk and one (1) notice of Ordinance adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after such adoption.

ARTICLE XVII
REPEALING CONFLICTING ORDINANCES

Any and all Ordinances or parts thereof in conflict with or inconsistent with any of the terms of this Ordinance are hereby repealed to such extent as they are so in conflict or inconsistent, provided however, that the adoption of this Ordinance shall not prevent or bar the continuance or institution of any proceedings for offenses heretofore committed in violation of any existing Ordinance.

ARTICLE XVIII
EFFECTIVE DATE

These provisions of the Montcalm Township Zoning Ordinance Amendments are hereby declared to be necessary for the public welfare, health, peace, safety and morals, and shall be in effect on and after the 6th day of May, 1981.

Enacted by the Montcalm Township Board, Montcalm County, Michigan, on this 6th day of May, 1981, as shown in the minutes of the meeting date.

Larry D. Townsend, Sr.	Supervisor
Marjorie Hughes	Treasurer
Eldon Christensen	Clerk
Jack D. Hansen	Trustee
Jack Nelson	Trustee

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