

Montmorency Township Zoning Ordinance

2004

Amended 2009

Amended 2021

All issues have not and can not be addressed. When a question arises that has not been addressed, property owner shall contact the Zoning Administrator for Montmorency Township to request a Special Use Permit before the Montmorency Township Zoning Board.

TABLE OF CONTENTS		
Article 1	Title, Preamble, Enacting clause, Short Title	3
Article 2	Definitions	4
Article 3	Zoning Districts	18
Article 4	“AG” Agricultural District	19
Article 5	“R-1” Residential District	23
Article 6	“RR-1” Resort Residential District	26
Article 7	“RM-1” Residential Mobile Home Park	29
Article 8	“C-1” Commercial District	31
Article 9	“I-1” Industrial District	33
Article 10	Site Plan Review and Special Exceptions	34
Article 11	Non-Conforming Uses, Structures and Lots	58
Article 12	Set Back and Side Line Spacing	59
Article 13	Area Requirements	61
Article 14	Off Street Parking of Motor Vehicles	61
Article 15	Use District Boundaries	64
Article 16	Residential Buffer Area	65
Article 17	General Lighting and Screening Requirements	65
Article 18	Tents Travel Trailers and Motor Homes	67
Article 19	Dismantled or Non-Operating Motor Vehicles	68
Article 20	Advertising Signs and Billboards	68
Article 21	General Provisions/Gas and Oil Processing Facilities	70
Article 22	Land Division	71
Article 23	Towers	75
Article 24	Sexually Oriented Business Regulations	78
Article 25	Miscellaneous Protection Requirements	85
Article 26	Board of Appeals	86
Article 27	Zoning Permits, Project Plans, Subdivision of Land and Procedures	90
Article 28	Enforcement	93
Article 29	Rezoning and Appeal Fees	94
Article 30	Penalty	94
Article 31	Amendments and Supplements	95
Article 32	Severability/Validity	97
Article 33	Effective Date	97
Article 34	Table & Zoning Maps of Montmorency Township	98
Article 35	Public Notice Requirements	103

ARTICLE 1

Adopted: _____

June 8, 2004

Effective: _____

June 24, 2004

Title

An ordinance enacted pursuant to the authority contained in Public Act 110 of 2006, as amended, known as the Michigan Zoning Enabling Act¹, for the establishment of zoning districts in the unincorporated portions of Montmorency Township, Montmorency County, Michigan, within which districts the designated and other proper uses of land and natural resources are encouraged, regulated and prohibited by ordinance, and within which districts provisions are adopted designating or limiting the location, height, number of stories and size of dwellings, buildings and structure, including tents and trailer coaches which may hereafter be erected or altered; for the regulation of yards, courts, and other open spaces and the sanitary, safety and protective measures that shall be required for such dwellings, buildings and structures, including tents and trailer coaches; for the designation of the maximum number of families that may be housed in dwellings, buildings and structures, including tents and house trailers, that may hereafter be erected or altered; to provide for the adoption of this ordinance and amendments thereto; to provide for the administration of the ordinance adopted; to provide for conflicts with other acts, ordinances and regulations; to provide penalties for violations; to provide for petitions, public hearings and referenda; to provide for a zoning board of appeals, to grant authority to said board in addition to that expressly provided in said Public Act 110 of 2006, as amended¹; to provide standards to guide actions and decisions of said board; and to provide for the amendment thereof and repeal of all ordinances or parts of ordinances in conflict herewith.

Preamble

In accordance with the authority and intent of Public Act 110 of 2006, as amended¹, as amended, in accordance with the Montmorency Township Comprehensive Plan, the fundamental purpose of this ordinance is to promote the health, safety, comfort, peace, morals, convenience and general welfare of the inhabitants of the Township. The provisions hereinafter are intended: a) to promote the orderly development of the

¹ Amended 8-11-09; Effective 8-27-09

Township; b) to encourage the use of the lands and resources of the Township in accordance with their character and adaptability; c) to promote economic progress and protect and enhance property values; d) to reduce hazards of life and property, promote safety in traffic, and provide protection from the spread of fire; e) to provide in the interests of health and safety minimum standards under which certain buildings and structures may hereafter be erected, altered and used; f) to facilitate the development of adequate and economic systems of fire protection, sewage disposal, safe water supplies, education, transportation and other public requirements; and g) to conserve the use of public funds for public improvements and services to conform with the most advantageous use of the lands, properties, and resources of the Township.

Enacting Clause

The Township of Montmorency, County of Montmorency, State of Michigan ordains:

Short Title

This ordinance shall be known as the Montmorency Township Zoning Ordinance.

Article 2 Definitions

General. When not inconsistent with the context, words used in the present tense include the future tense, words used in the singular number include the plural number and words used in the plural number include the singular. The word “shall” is always mandatory and not merely directory. The word “building” includes the word “structure” and vice versa. Terms not herein defined shall have the meanings customarily assigned to them.

Specific Terms. The following terms shall have the following meanings when used in the ordinance:

Accessory Building: Shall mean a supplemental building or unattached structure on the same lot as the main building occupied by or devoted exclusively to an accessory use, but not for dwelling, lodging or sleeping purposes.

Accessory Use: A use of building, lot or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.

Apartment House or Multi-Family Dwelling: A building used and/or arranged for rental occupancy, or cooperatively owned by its occupants, having three or more family units, and with a yard, compound, service, or utilities in common.

See dwelling, Multiple Family.

Agriculture: Land, and/or farm buildings and structures containing at least five (5) acres.

The principal use or uses which is growing of farm or truck garden crops, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, tree farming, animal or poultry husbandry, and accessory uses customarily incidental to agricultural activities, including but not limited to the farm dwelling, dwellings for tenants and full-time hired farm workers and the dwelling or lodging rooms for seasonal workers.

Agricultural Service Establishment: Establishments that engage in performing agricultural, animal husbandry or horticultural services on a fee or contractual basis, including but not limited to centralized bulk collection, refinement, storage and distribution of farm products to wholesale and retail markets (such as grain cleaning and shelling; sorting, grading, and packing of fruits and vegetables for the grower; and agricultural produce milling and processing); the storage and sale of seed, feed, fertilizer and other products essential to agricultural production; hay baling and threshing; crop dusting; fruit picking; harvesting and tilling; farm equipment sales, service and repair; veterinary services; and facilities used in research and testing of farm products and techniques.

Attic: Accessible space between the top ceiling joists and underside of roof often used for storage and sometimes converted to extra living space. Inaccessible or accessible spaces with 1/3 or less of any floor area capable of providing sufficient head clearance to permit normal movement of an adult are called structural cavities or attic crawl spaces.

Basement: That portion of a building below the first floor joists. The foundation of a building with all or up to one-half of its volume sub-grade and with sufficient head clearance to permit normal movement of an adult.

Bed and Breakfast, Boarding, Rooming or Lodging House, and Tourist Home: A building other than a hotel or motel where for compensation and by prearrangement for definite periods lodging, meals or both are provided for three or more persons.

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

Building Height: The vertical distance measured from the mean elevation of the finished lot grade along the front yard face of the structure to the highest point of the roof.

Building Width: The width of a lot left for building after side yards are provided.

Carport: A shelter for one or more automobiles which is not fully enclosed by walls or doors.

Child Care Facility¹: A facility for the care of children (persons under 18 years of age), as licensed and regulated by the state under Act 116 of the Public Acts of 1973, being M.C.L.A. §§ 722.111 through 722.128 as amended, and the associated rules promulgated by the State Department of Human Services. Such organizations shall be further defined as follows:

Family Child Care Home: A private home operated by a Michigan licensed day care operator in which at least one (1) but less than (7) seven children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent and/or legal guardian, not including children related to an adult member of the resident family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.

Group Child Care Home: A private home operated by a Michigan licensed day care operator in which more than six (6) but not more than twelve (12) children are given care and supervision for periods less than twenty-four (24) hours a day, unattended by a parent and/or legal guardian, not including children related to an adult member of the resident family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.

Child Care Center or Day Care Center: A facility, other than a private residence, receiving one (1) or more preschool or school-age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center.

Private Home: A private residence in which the registered facility operator permanently resides as a member of the household.

Conveyance: An instrument or deed transferring the fee title to property.

Club: Buildings and facilities owned or operated by a corporation, association, person or persons for social and/or educational and/or recreational purposes, but primarily for profit or rendering a service customarily carried on as a business.

Comprehensive Plan: The extensively developed and evolving plan, also called a

¹ Amended 8-11-09; Effective 8-27-09

master or general plan, adopted by the Township Planning and Zoning Commission.

Crawl Space: A shallow unfinished space beneath the first floor of a building which has no basement or in an attic immediately below the roof with insufficient head clearance to permit normal movement of an adult.

Curtilage: A yard within the fence surrounding a dwelling.

Dwelling, Single Family: A building , manufactured home or mobile home, occupied and designed for a single family, with appropriate sleeping, living, and sanitary facilities. To be constructed in accordance with all Montmorency Township Zoning Ordinance requirements, MI State Construction code, and Montmorency County Health codes.

Dwelling, Two Family: A building containing not more than two separate dwelling units designed for residential use and conforming in all other respects to the standards set forth in Single Family Dwellings.

Dwelling, Multiple Family: A building containing three or more dwelling units designed for residential use and conforming in all other respects to the standards set forth in Single Family Dwellings.

Dwelling Unit, Farm: A dwelling located on a farm which is used or intended for use by the farm's owner, operator, or person employed thereon. A farm dwelling unit shall conform in all other respects to the standards set forth in Single Family Dwellings.

Dwelling Unit, Non-Farm: A dwelling unit located within the AG District which is not a farm dwelling unit and which is designed for single family occupancy and conforming in all other respects to the standards set forth in Single Family Dwellings.

Easement: The right of one party to use the land of another for a specific purpose.

Erected: Includes built, constructed, reconstructed, extension, enlargement, moved upon, or any physical operation on the premises intended or required for a building or structure. Excavation, fill, drainage, and general property improvements shall not be considered as erected.

Essential Services: The erection, construction, alteration or maintenance by public or private utilities or township departments or commissions of underground or overhead gas, electrical, steam or water transmissions or distribution systems, collections, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarms, boxes, police call

boxes, traffic signals, hydrants, towers, telephone exchange and/or repeater buildings, electric substations and substation buildings, gas regulator stations and regulator buildings and other similar equipment and accessories in connection therewith (but not including any buildings except those expressly referred to herein) reasonably necessary for the furnishing of adequate service by such public or private utilities or township departments or commissions or for the public health or safety or general welfare.

Family:

- a. An individual or a group of two or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or
- b. A collective number of individuals domicile together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

Farm: Real Property used for commercial agriculture comprising at least forty (40) contiguous acres which may contain other non-contiguous acreage, all of which is operated by a sole proprietorship, partnership, or corporation and including all necessary farm buildings, structures and machinery.

- a. A tract may be considered a farm if it is between 5 and 40 acres, provided it is devoted primarily to an agricultural use.
- b. A smaller tract may be considered a farm if designated by the Department of Agriculture as a specialty farm in one ownership.

Farm Building: Any building or accessory structure other than a farm or non-farm dwelling unit, which is used for farm operations such as, but not limited to, a barn, grain bin, silo, farm implement storage building or milk house.

Fence: A permanent or temporary partition or structure erected as a divider, barrier, or enclosure and not part of a structure requiring a building permit. Wooden, concrete, asphalt, earthen, or masonry walls, berms, paving, driveways or fill materials and hedges shall be defined and regulated as fences when such items rise higher than the preexisting ground level (i.e., the level of the ground as it existed immediately before such items were deposited or erected,) and when such items are used for the purpose of enclosure or as support for an enclosure.

(Amended 2021)

Fence Height: The vertical distance from the lowest part of the fence structure to the highest part of the fence structure. When all or part of a fence is installed on wooden, concrete, asphalt, earthen, or masonry walls, berms, paving, driveway or fill materials that are used for the purpose of enclosure or as a base or support for an enclosure, the height of such items shall be included in the measurement of the fence height when such items rise higher than the preexisting ground level.

(Amended 2021)

Floor Area: The total gross area on all floors under roof as measured to the outside surfaces of exterior or perimeter walls. Areas below grade, attics without floors, breezeways, crawl spaces, open porches, balconies, decks, terraces, and attached accessory structures are not included.

Footings: A support under a foundation, chimney, or column that usually rests on solid ground and is wider than the structure being supported. Foundation footings should be placed below the frost line to prevent movement.

Foundation: Construction, below or partly below grade, which provides supports for exterior walls or other structural parts of the building. Its use is synonymous with basement wall when the house has a basement. In some areas, footing, crawl space or foundation are used interchangeably.

Frost line: The depth of frost penetration in the soil.

Garage, Private: A fully enclosed accessory building, or an accessory portion of a principal building which is intended for and used to store private passenger motor vehicles, recreation vehicles and equipment, household belongings, and property maintenance equipment.

Garage, Public/Commercial: A building or part thereof other than a private garage designed or used for equipping, servicing, repairing, hiring, storing, or parking motor-driven vehicles and equipment. The term does not include the rebuilding, dismantling or storage of wrecked or junk vehicles.

Gas and Oil Processing Facilities: Any facility and/or structure used for, or in connection with, the production, processing or transmitting of natural gas, oil, or allied products or substances, and the injection of same into the ground for storage or disposal, not under the exclusive jurisdiction or control of the supervisor of wells, Department of Natural Resources or Public Service Commission; not including industrial facilities such as cracking plants, large oil storage facilities and heavy industrial operations and facilities.

Gasoline Service Station: Any land, building, or structure used for the retail sale of motor vehicle fuels, lubricants, accessories, convenience items, and the incidental repair of such motor vehicles provided such repair is subordinate to the principal use and

does not involve the storage upon the premises of more than three vehicles.

Grade: The highest level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

Greenbelt: A planting strip or buffer strip composed of deciduous and/or evergreen trees or dense shrubs. With regard to waterfront lot greenbelt requirements, it is permissible for said lots to create and/or maintain an opening to afford a view of the lake or stream, as long as said opening is within the spirit of the intended purpose of the greenbelt to foster environmental protection, retain or restore original shoreline scenic beauty, provide privacy and alleviate noise. A greenbelt, as described here, may approximate, but is not, synonymous with greenbelt zoning.

Home Occupation: An occupation clearly incidental to the residential use, but which does not change the residential character of the property or the immediate neighborhood, and does not endanger the health, safety and welfare of any other person living in the general or immediate area by reasons of noise, glare, noxious odors, electrical interference, radiation, hazardous chemicals and materials storage and/or improper disposal, unsanitary conditions, excessive traffic, fire hazards and other such negative impacts involved in or resulting from the pursuit of such an occupation. Such occupation shall be conducted by the person or persons occupying the premises as their principal residence a major portion of each month; provided, however, additional subordinate assistants or associates who do not reside within said dwelling are permitted where the same would not materially impair the residential character of the neighborhood or cause traffic congestion or parking problems. In no event, however, shall such additional assistants or associates exceed three in number without the authorization of the Zoning Board of Appeals. Such use shall not occupy more than twenty-five percent (25%) of the total floor area. No goods shall be sold from the premises which are not strictly incidental to the principal home occupation conducted therein. The Zoning Board of Appeals shall have the authority to determine whether or not a proposed use complies with this ordinance and is within the spirit of the same to ensure compatibility of any use with the character of the zoning classification in which the same is located.

Hotel, Motel or Motor Inn: Buildings open to the public consisting of a group of lodging rooms with or without individual bathrooms, and designated for use by transient guests for compensation. Customary services furnished may include: bellboy, maid service, laundering of bed and bath linens, telephone, central desk message service, use and upkeep of furniture and appliances. Larger hotels, motels or motor inns may include restaurant, cocktail lounge, night club, outdoor and/or indoor swimming pool, and health spa, meeting rooms, gift and magazine shops, and game rooms, indoor and/or outdoor recreational areas, such as golf putting

greens, tennis, and racquetball court facilities.

House Trailer, Mobile Home or Trailer Coach: Any vehicle, whether self-propelled or non-self-propelled, used or adapted to be used as a conveyance upon the public street and highways and for occupancy as a dwelling or sleeping place for one or more persons, office or other business use, and whether or not the same has a foundation there under if said foundation is designed to permit the removal of such house trailer, mobile home or trailer coach and its re-adaptation to use upon the public streets or highways.

House Trailer or Mobile Home Park: Any parcel or tract of land on which three or more occupied trailer coaches or mobile homes are located, regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment or facility used, or intended for use, accessory and incidental to such house trailers.

House Trailer or Mobile Home Site or Space: A portion of the mobile home park set aside and clearly marked and designated for occupancy and accommodation of an individual mobile home or house trailer.

Junkyard and/or Recycling Operation: Any land or building used for commercial storage, recycling and/or sale of paper, rags, scrap metals, other scrap or discarded materials, or for the dismantling, storage or salvaging of automobiles or other vehicles not in running condition, or of machinery or parts thereof, but not including a dump or sanitary landfill.

Kennel: Any activity involving the permanent or temporary keeping or treatment of four or more adult animals as a business other than ordinary agricultural operations.

Lot or premises: Land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this ordinance for a lot in the district in which such a lot is situated and having the required frontage on a street.

Lot Area: The total horizontal area included within lot lines. Where the front lot line is the centerline of a street or lies in part or in whole in the street area, the lot area shall not include that part of the lot in use or to be used as the street.

Lot, Corner: A lot located at the intersection of two streets or a lot bounded on two sides by a curving street, any two cords of which form an angle of 135 degrees or less as measured on the lot side. The point of intersection of the street lot lines is the "corner". In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above.

Lot Depth: The mean horizontal distance from the front street line to the rear lot line.

Lot, Interior: A lot other than a corner lot.

Lot, Front Line: That side of the lot abutting upon a public or private street right-of-way: in the case of a corner lot, either street right-of-way line may be considered the front line of the lot if it contains the minimum required frontage.

Lot, Rear Line: Ordinarily that lot line which is opposite and most distant from the front lot line as hereinbefore defined. In the case of an irregular-shaped lot, a line 10 feet in length entirely within the lot and parallel to and at the maximum distance from the front lot line shall be considered the rear lot line for the purpose of determining required rear yard spacing.

Lot, Side Line: Any lot line not qualifying as a front or rear lot line. A side lot line separating a lot from a street right-of-way shall be known as a Side Street Lot Line. A side lot line separating a lot from another lot or lots shall be known as an Interior Side Lot Line.

Lot Width: The mean horizontal distance between the side lines as measured at right angles to such side lot lines. Where side lot lines are not parallel, the lot width shall be the average horizontal distance between such side lot lines. The average horizontal distance measurement between non-parallel side lot lines shall not be applied to waterfront lots.

Lot of Record: A lot which is part of a subdivision and is shown on a plot or map thereof which has been recorded in the office of the Register of Deeds for Montmorency County prior to the effective date of this ordinance; or a parcel of land described by metes and bounds which is the subject of a deed or land contract recorded in said office prior to said date. Any one lot of record created before the effective date of this ordinance without frontage on any public street or right-of-way must have access provided by easement or other right-of-way no less than 20 feet wide.

Non-Conforming Uses or Structures: A building or structure or the use of a building, structure or land lawfully existing at the time this ordinance became effective but which does not conform to the present regulations of the district within which it is located.

Nuisance: Any unlawful act or omission to perform a duty, which act or omission either annoys, injures, or endangers the comfort, repose, health, welfare or safety of others to the extent as to affect the public in general.

Office: A room, suite of rooms, or building in which are located desks, chairs, tables, couches, bookcases, equipment (i.e., accounting, filing, recording/copying, computer, drafting/ drawing, communication and/or stenographic) for current use in the office business, and personnel engaged in executive, administrative, professional, political, informative, research and/or clerical duties; and other similar, related or incidental furniture, equipment or personnel connected or

concerned with the performance of a personal service which causes or creates no external disturbance, nuisance, or annoyance beyond the confines of said rooms or building.

Open Space: An unoccupied space open to the sky on the same lot with a building.

Performance Standard: A criterion established to control noise, odor, smoke, particulate matter, toxic or noxious matter, vibration, fire and explosion hazards, or glare or heat generated by or inherent in uses of land or buildings.

¹Planning Commission: The body appointed by the Municipal Council under the provisions of Public Act 33 of 2008, the "Michigan Planning Enabling Act" as amended. Refers to the Montmorency Township Planning Commission.

Premises: See "Lot" or "Premises".

Recreational Vehicle: A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup camper, travel trailers, and tent trailers; provided, however, that any such vehicle or unit which is 40 feet or more in overall length shall be considered a mobile home and shall be subject to all regulations of this ordinance applicable to a mobile home.

Restaurant: Premises upon which food or beverages are cooked or prepared and offered for sale and where consumption is permitted on the premises whether or not entertainment is offered, and includes establishments commonly known as bars, grills, cafes, cocktail lounges, taverns, night clubs, drive-ins, and fast food establishments permitting consumption on the premises.

Right-of-way: Street, alley or other thoroughfare or easement permanently established for the passage of persons and vehicles.

Septic Tank: A water tight receptacle having an inlet and outlet receiving liquid wastes and so designed to permit the separation of solids in suspension from such wastes and to permit such retained solids to undergo decomposition therein.

Setback: The minimum horizontal distance a building or structure, or any portion thereof, is required to be located from the boundaries of the lot or parcel of land upon which the same is located

Sewage: The liquid waste from all habitable buildings and human excreta as well as from toilets, urinals, sinks, laundries, shower baths, bath tubs, dishwashers, garbage

¹ Amended 8-11-09; Effective 8-27-09

grinders, and septic tank overflow or effluent.

¹Shipping or Manufactured Storage Container: A large, strong container, usually made of metal, which is fabricated and used for the purpose of storing goods in during shipment usually by truck, railroad, or ship. A shipping or manufactured storage container may be permitted as an accessory building in the Agricultural (AG) District, Residential (R-1) District, Commercial (C-1) District, and Industrial (I-1) District in the numbers listed in each district section within this Ordinance. A shipping or manufactured storage container shall not be permitted in the Resort Residential (RR-1) District or the Residential Mobile Home Park (RM-1) District. A shipping or manufactured storage container shall not be used as a dwelling.
(Amended 2021)

Sign: An identification, description, illustration or device affixed to or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, person, activity, institution or business.

Slab-on-ground: A concrete slab made by pouring concrete directly on the prepared ground surface and over the top of the foundation and footings.

Solar Collector Panels: Any of a wide variety of devices [from ordinary windows to Trombe walls-a masonry wall that heats up because it's covered on one side (the side facing the sun) by glazing about six inches from the wall] that collect solar energy and convert it to heat.

Special Exception Use or Special Approval: Uses of land which may be appropriate and compatible with existing or permitted land uses in a particular zoning district if individualized care is taken to assure that the characteristics of the use under consideration are compatible with adjacent land uses, the natural aspects of the site, and the general character of the area, including availability of public services and facilities. After due consideration in each case, the Township Zoning Board may or may not grant approval to the application for special exception use. An appeal of a decision on a special exception use shall be made to the Township Zoning Board of Appeals.

¹State-Licensed Residential Facility (Adult Foster Care): A structure constructed for residential purposes that is licensed by the State pursuant to Act No. 218 of the Public Acts of 1979 (Adult Foster Care Licensing Act), as amended, being Sections 400.701 to 400.737 of the Michigan Compiled Laws, or Act No. 116 of the Public Acts of 1973 (Child Care Organizations), as amended, being Sections 722.111 to 722.128 of the Michigan Compiled Laws, which provides resident

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services or care for six (6) or fewer individuals under twenty-four (24) hour supervision for persons in need of that supervision or care.

Street, Highway, Road: A public or private thoroughfare which affords the principal means of access to abutting property.

Tile Disposal Field and/or Absorption Bed: A means of distributing septic tank overflow or effluent below the ground surface by means of line of drain tile or a series of lines of drain tile laid with open joints so as to allow the effluent to be absorbed by the surrounding soil.

Use: The purpose or activity for which the land or building thereon is designed, arranged, intended, or for which it is occupied or maintained.

Utilities: Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and storage yards.

Variance: Action taken by the Zoning Board of Appeals granting a property owner relief from certain provisions of the ordinance when because of the particular physical surroundings, shape or topographical contour of the property, compliance would result in an undue hardship upon the owner, as distinguished from a mere inconvenience or desire for and increased economic return. The burden of showing a variance is warranted falls upon the applicant.

Wind Energy Definitions¹:

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

Anemometer: A device used to measure wind speed.

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

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

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

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

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

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

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

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

Wind Turbine Generator: A wind energy conversion system which converts wind energy into power. Includes a tower, pylon, or other structure, including all accessory facilities, upon which any, all, or some combination of the following are mounted:

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

Wind Turbine Generator Total Height:

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

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

Yard: An open space to the sky between a building and lot lines of the parcel of land on which located, unoccupied or unobstructed by any encroachment or structure except as otherwise provided in this ordinance.

Yard, Front: A yard across the full width of the lot extending from the front line of the principal building to the front lot line, street right-of-way line or ordinary high water mark as the case may be and bounded by the side lot lines.

Yard, Rear: A yard extending across the full width of the lot from the rear line of the principal building to the rear lot line and bounded by side lot lines.

Yard, Side: A yard extending between the side lot line and the nearest side line of the building and bounded by the front and rear lot lines.

Zones or Zoning District Boundaries: Where uncertainty exists as the boundaries of any of the districts or zones shown on the zoning map, the following rules shall apply:

- a. Zone boundary lines are intended to be parallel or perpendicular to street, alley or lot lines, unless such zone boundary lines are fixed by dimensions, as shown on said zoning map.
- b. Where zone boundaries are indicated as approximately following street or alley lines or proposed street lines, such lines shall be construed to be such boundaries.
- c. Where zone boundaries are so indicated that they approximately follow lot lines and are not more than 25 feet distant therefrom, such lot lines shall be such boundaries.
- d. If unsubdivided property or where a zone boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on such maps, or described in the text of the ordinance, shall be determined by the use of the map scale shown thereon, and scaled to the nearest foot.
- e. If all or any portion of any public street, alley, right-of-way, easement or land which is not included in any zone shall ever revert to or come into private ownership or shall ever be used for any purpose other than a public purpose, said land shall be subject to all of these regulations which apply within the zone immediately adjacent thereto, or within the most restricted of the immediately adjacent zones, if there be more than one.

Article 3
Zoning Districts

Division of Township

The Township of Montmorency shall be divided into zoning districts, as hereinafter described, within which districts no buildings or premises shall be used and no building shall hereafter be erected, altered, or located except for the uses and purposes hereinafter set forth as “permitted uses” under each separate zoning district classification; subject, however, to such prior approval as is hereinafter required to be obtained from the Zoning Board for such special exception uses.

Classification of Zoning Districts

For the purpose set forth in the Preamble, the Township of Montmorency, Montmorency County, Michigan, shall be divided into the following zoning districts:

- 1 Agricultural District – AG
- 2 Residential – R-1
- 3 Resort Residential – RR-1
- 4 Residential Mobile Home Park – RM-1
- 5 Commercial – C-1
- 6 Industrial – I-1

Zoning Maps

The areas assigned to each zoning district and the boundaries thereof shown or described upon the map entitled “Zoning Districts Map of Montmorency Township, Montmorency County, Michigan” are hereby established, and said maps and all proper notations and other information shown thereon are hereby a part of this ordinance.

Boundaries of Zoning Districts

Unless otherwise specified, the boundary lines of zoning districts shall be determined or interpreted in accordance with the rules established in the definition of “zones or zoning district boundaries: (reference Zones or Zoning District Boundaries of Montmorency Township Zoning Ordinance Definitions).

Interpretation of the Zoning Map

Where, due to scale, lack of detail or illegibility of the zoning maps, there is uncertainty, contradiction, or conflict as to the intended location of any zoning district boundary as shown thereon, the Zoning Administrator shall make an interpretation of said map upon request of any person. Any person aggrieved by any such interpretation may by written application appeal such interpretation to the Zoning Board of Appeals.

The Zoning Administrator and the Zoning Board of Appeals shall apply the rules established in the definition of zones or zoning district boundaries (reference Zones or Zoning District Boundaries of Montmorency Township Zoning Ordinance Definitions) in interpreting the zoning maps or deciding any appeal.

Article 4
“AG” Agricultural District

Statement of Purpose: This township encourages all residents in this district to understand the “Right to Farm Act”. Agricultural districts are those open areas of the Township where farming, dairying, forestry operation, and other such agricultural/rural-type activities exist and should be preserved or encouraged. Large vacant areas, fallow land, wooded areas and wetlands may also be associated with agricultural lands. The conservation of such areas is important due to their usefulness for water retention, and groundwater recharge areas, and as habitat for plant and animal life. This district is established to provide the basis for land tax assessments which reflect its existing agricultural nature and owing to these regulations, its limited use for other purposes. Although the demand for other uses in these districts may intrude upon and ultimately outweigh their use as zoned, any such zoning changes should be made cautiously with long-range consideration toward future food supplies essential for the health and welfare of the Township, County, State, and Nation. The intent of this district is to control the conversion of agricultural land to scattered non-farm development which, when unregulated, unnecessarily increases the cost of public services to all citizens and results in premature disinvestments in agriculture. Many people unaccustomed to living in rural areas cherish a dream of “a place of their own in the country” someday. Unfortunately, many newcomers to agricultural areas are unwilling to cope with the seasonal around-the-clock machinery noise and odors associated with agricultural operations and their complaints often create problems for farmers trying to carry out their livelihoods. Although non-farm dwellings are allowed, they are subject to certain restrictions designed to minimize conversion of agricultural land while retaining a rural setting. The dwelling maintains the present character in design and appearance of other residences in the vicinity. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy consistent with this ordinance, view, unique land contour, or relief from the common or standard designed home.

Permitted Uses.

- 1 Agriculture and agricultural operations, including cultivation and harvesting of field crops, horticulture, viticulture, dairy farming, cattle raising, poultry raising, and other bona fide agricultural enterprises excluding feed lots, piggeries, rendering plants, commercial fertilizer production, garbage feeding or disposal activities.
- 2 Farm ponds’, providing a setback of at least 50 feet is maintained from all property lines and public right-of-ways.

- 3 Forestry.
- 4 Wildlife preserves.
- 5 Hunting preserves.
- 6 Private single family dwellings widely dispersed on lots of 2 or more acres in keeping with the low-density settlement characteristics of this district.
- 7 Family Child Care Homes¹
- 8 State Licensed Residential Facilities¹

Accessory Uses.

- 1 Accessory buildings customarily associated with the agricultural uses permitted above, including barns, sheds, silos, stables and similar structures.
- 2 Markets for the sale of products grown on the premises together with incidental products related thereto not grown or produced on the premises but which are an insubstantial part of said business.
- 3 Home occupations as described in Montmorency Township Zoning Ordinance Definitions.
- 4 Kennels.
- 5 Residentially related uses listed below, providing the use meets the spirit of this ordinance by keeping the conversion of agricultural land to the minimum necessary to accomplish each use, and that parties proposing such use are fully aware that existing agricultural operations conducted in accordance with generally accepted agricultural practices shall not be found a public nuisance, in keeping with requirements of Public Act 240 of 1987, as amended, the Michigan Right to Farm Act.
 - a. Additional non-farm single-family dwellings and accessory buildings.
 - aa. No more than three (3) single-family non-farm dwellings, house trailers or mobile homes per 40-acre farm, which shall meet all requirements of this ordinance, the Montmorency County Sanitary Code, the Michigan State Construction Code, and any other codes or requirements cited herein.

¹ Amended 8-11-09; Effective 8-27-09

bb. On a vacant 40-acre agricultural tract without a farm dwelling unit or farm buildings, up to four (4) single-family non-farm dwelling units meeting all requirements contained in this ordinance shall be allowed.

cc. Non-farm dwelling units will be designed and utilized for single-family occupancy and said residents shall not be engaged in the growing or production of farm products for primary income on said premises.

dd. Site development standards for non-farm dwelling units are:

Minimum lot area = 2 acres
Minimum lot width = 150 feet
Minimum lot depth = 150 feet
Maximum lot coverage = 20%
Minimum setbacks:
-front = 35 feet
-side = 20 feet
-rear = 50 feet

ee. Site development standards for farm dwelling units:

Minimum lot area = 40 acres
Minimum lot width = 600 feet
Minimum setbacks:
-front = 35 feet
-side = 20 feet
-rear = 50 feet

6. Shipping or Manufactured Storage Containers shall be permitted at one (1) per twenty (20) acres with a maximum of three (3) total per lot. Such structures shall adhere to all regulations relating to standard accessory buildings. *(Amended 2021)*

Special Exception Uses:

- 1 Agricultural service establishments as described in Montmorency Township Zoning Ordinance definitions.
- 2 Animal feed lots and piggeries.
- 3 Private aircraft landing fields.
- 4 Sand pit and gravel operations or topsoil removal operations, in accordance with

the applicable provisions described in Article 10 under Earth Removal, Topsoil Removal, Quarrying, Gravel Processing, Mining and Related Mineral Extraction Businesses.

- 5 Permanent commercial sawmills.
- 6 Bed and Breakfast, guest ranches, hunting or fishing resorts, golf courses, resort hotels, including accessory facilities such as stables, corral, swimming pools, food services, and incidental retail sales.
- 7 Residentially related uses listed below, providing the use meets the spirit of this ordinance by keeping the conversion of agricultural land to the minimum necessary to accomplish each use, and that parties proposing such use are fully aware that existing agricultural operations conducted in accordance with generally accepted agricultural practices shall not be found a public nuisance, in keeping with requirements of Public Act 240 of 1987, as amended, the Michigan Right to Farm Act.
 - a. Churches and parish houses.
 - b. Nursing and convalescent homes.
 - c. Public or private schools or educational institutions.
 - d. Cemeteries.
 - e. Neighborhood commercial services, including:
 - aa. Gasoline service stations, public garages, small engine repair and welding shops on no larger than a 3-acre parcel and no more than one per section of land.
 - bb. Retail grocery, convenience, hardware, lawn and garden, bait and sporting goods stores which must be located on no larger than a 3-acre parcel and no more than one establishment per section of land.
- 8 Wind Towers.
- 9 A complex or development of “permitted” or designated “special exception” uses which do not comply with all conditions and limitations pertinent thereto but which still comply with the spirit of this ordinance with the approval of the Zoning Board of Appeals under the procedure and standards specified in the ordinance for special exception uses.
- 10 Group Child Care Homes¹

¹ Amended 8-11-09; Effective 8-27-09

Article 5
“R-1” Residential District

Statement of Purpose: In keeping with the unique, low-density resort settlement characteristics of vast areas of Montmorency Township, this district classification is designed to provide for a stable and sound low-density year-round and seasonal residential environment on lots of sufficient area (2 or more acres, unless otherwise specified) to accommodate the safe and healthful use of on-site private water wells and septic waste-water disposal systems and to allow for a minimum of other residentially related facilities and activities primarily of service to year-round and seasonal residents in the area.

Permitted Uses:

- 1 Private single family dwellings widely dispersed on lots of 2 or more acres in keeping with the low-density settlement characteristics of this district.
- 2 Home occupations as defined in Montmorency Township Zoning Ordinance definitions.
- 3 Essential services. Any utility substation or its likeness shall provide and maintain a 10 foot wide greenbelt buffer strip between this essential service use and other permitted or incompatible special exception uses.
- 4 Solar collector panels of an aesthetic design compatible with the dwelling and adjacent landowner dwellings.
- 5 The keeping of limited numbers of domesticated livestock for the sole use and enjoyment of the owner/occupant and, all contained and properly maintained within neat accessory buildings and adequately fenced areas on parcels of not less than 2.5 acres in a manner so as to not create a nuisance, annoyance, or economic detriment to adjacent property owners/occupants and their premises, and that such use shall not constitute a farm as defined under “Farm” in the Montmorency Township Zoning Ordinance definitions.
- 6 No more than one storage building or shed per lot without a principal building and utilized for the sole purpose of storage of property maintenance and recreational equipment while the lot owner is making property improvements for future full-time or seasonal occupancy of said lot. Said storage building shall be securely anchored to the ground and shall be maintained so that it presents a neat appearance in order that said storage building does not detract from neighboring property values or create an eyesore or nuisance.
- 7 Accessory buildings and uses customarily incident to any of the foregoing uses when located on the same lot and not involving the conduct of a business.

- 8 Family Child Care Homes¹
- 9 State Licensed Residential Facilities¹
- 10 Site development standards:
 - Minimum lot area = 2 acres
 - Minimum lot width = 150 feet
 - Minimum setbacks:
 - front = 35 feet
 - side = 20 feet
 - rear = 50 feet
11. Shipping or Manufactured Storage Containers shall be permitted at one (1) per twenty (20) acres with a maximum of three (3) total per lot. Such structures shall adhere to all regulations relating to standard accessory buildings. *(Amended 2021)*

Special Exception Uses:

- 1 Private two or three family dwellings on sufficiently large lots to accommodate safe private water well and properly functioning septic tank sewage disposal systems as per the Montmorency County Health Dept. Sanitary Code.
- 2 Private recreational complex developments, which may include ski hills, cross-country ski trails, snowmobile trails, golf courses, pro shops, tennis courts, swimming pools, playing fields, guest ranches, resorts, retreat facilities, summer camps, restaurant, dining and group sleeping and accessory use facilities all on lots of 40 or more acres. The owner/operator shall provide and maintain a 30 foot wide greenbelt buffer between the special exception use recreational development and permitted uses.
- 3 Gasoline service stations, public garages, small engine and appliance repair, and welding shops, and car washes. The owner or operator of the above retail/service business shall comply with the applicable general lighting and screening requirements found in Article 17 of this ordinance.
- 4 Retail grocery, convenience, pharmacy, hardware, sporting goods, bait shops, jewelry, antique, souvenir and gift shops, boutique stores, beauty salons, barber shops, bake shops, variety stores, real estate, insurance, branch financial institutions, restaurants, and motels. The owner/operator of the above commercial businesses shall comply with the applicable general lighting and screening requirements found in Article 17 of this ordinance.
- 5 Kennels as an accessory use on lots of 2.5 or more acres. Kennels shall be located at least 132 feet from adjacent lot lines.

¹ Amended 8-11-09; Effective 8-27-09

- 6 Medical, dental, chiropractic, optometric, veterinary clinics, law, and other professional and social service offices. The owner/operator of the above service businesses/agencies shall comply with the applicable general lighting and screening requirements found in Article 17 of this ordinance.
- 7 Farming and agricultural operations on lots of 30 or more acres, together with a reasonable number of accessory buildings, and the right to sell products, poultry or domestic livestock animals produced, raised or grown on the premises.
- 8 Sand and gravel pit operations in accordance with the applicable provisions of Article 10 under Earth Removal, Topsoil Removal, Quarrying, and Gravel Processing, Mining and Related Mineral Extraction Businesses.
- 9 Industrial operations on lots of 10 or more acres. Such operations must meet all applicable local, state and federal governmental codes and requirements. The owner/operator shall comply with the residential buffer requirements of this ordinance as per Article 16 and Article 17 of this ordinance.
- 10 Schools, libraries, and other municipal structures and uses. The school or community shall provide and maintain a 10 foot wide greenbelt buffer strip between this permitted use and adjacent residential uses.
- 11 Churches and parish halls. The church shall provide and maintain a 10 foot wide greenbelt buffer strip between this permitted use and adjacent residential uses.
- 12 Child Care Center.¹
- 13 Golf courses, parks, and other municipally owned or operated public recreational facilities.
- 14 Hospitals. The hospital shall provide and maintain a 10 foot wide greenbelt buffer strip between this permitted use and any residential uses.
- 15 Wind Towers.
- 16 Group Child Care Homes²
- 17 A complex or development of a multiple number of “permitted” or designated “special exception” uses which do not comply with all conditions and limitations pertinent thereto but which still comply with the spirit of this ordinance with the approval of the Zoning Board under the procedure and standards specified in the ordinance for special exception uses.

¹ Amended 8-11-09; Effective 8-27-09

² Amended 8-11-09; Effective 8-27-09

Article 6
“RR-1” Resort Residential District

Statement of Purpose: In keeping with the unique resort character of Montmorency Township and the special attraction of its lake, river, stream, and woodland areas for year-round and seasonal residential use which has resulted in medium-density settlement patterns, this district is designed to provide for a stable and sound residential environment on lots of sufficient area to accommodate the safe and healthful use of on-site private water wells and septic tank wastewater disposal systems, while endeavoring to accommodate a diversification of uses usually attendant with such resort residential areas and yet limiting the uses applicable to this district when such uses would constitute a detriment to the natural environment and scenic characteristics of the district. The RR-1 District shall comprise all lot or parcels located in whole or part within 2,000 lineal feet (0.4 mile) from the ordinary high water mark of any lake, reservoir, or pond with a surface area in excess of 5 acres or any constantly flowing river, stream, or creek, but excluding intermittent streams and drainage ditches. The RR-1 District shall also comprise those outlying medium-density woodland and/or open country residential settlement areas as delineated on the Township Zoning Map.

Permitted Uses:

- 1 Waterfront (lakes, ponds, rivers, streams, and contiguous or adjacent wetlands) single-family dwellings on lots with a minimum total area of 10,000 square feet and a minimum lot width of 100 feet (as specified under Lot Width in the Montmorency Township Zoning Ordinance definitions), measured along the waterfront. As per the Montmorency County Sanitary Code, lakefront septic tanks shall have a minimum 75 foot setback and tile absorption fields a minimum 100 foot setback from the ordinary high water mark of the water body and/or shall be installed and operated in compliance with any other County Health Department directives. A 35 foot wide waterfront greenbelt shall be maintained or retained in accordance with Greenbelt as described in the Montmorency Township Zoning Ordinance definitions.
- 2 Waterfront two-family dwellings on lots with a minimum total area of 20,000 square feet and a minimum lot width of 200 feet, as measured along the waterfront, meeting all septic tank and tile absorption field requirements of the county Health Department and a 35 foot wide waterfront greenbelt of this ordinance as per Greenbelt definitions in the Montmorency Township Zoning Ordinance.
- 3 Waterfront three-family dwellings on lots with a minimum total area of 30,000 square feet and a minimum lot width of 300 feet, as measured along the waterfront, meeting all septic and tile absorption field requirements of the County Health Department and 35 foot wide waterfront greenbelt of this ordinance as per Greenbelt definitions in the Montmorency Township Zoning Ordinance.

- 4 Single-family dwellings on non-waterfront lots with a minimum total area of 10,000 square feet.
- 5 Two family dwellings on non-waterfront lots with a minimum total area of 20,000 square feet.
- 6 Three family dwellings on non-waterfront lots with a minimum total area of 30,000 square feet.
- 7 No non-waterfront lot shall have private access to adjacent waters unless such private access is at least 100 feet wide at the water's edge to allow adequate area for swimming and beach activities for non-waterfront owners and guests and to eliminate the use of other waterfront private property for such purposes. Not more than 2 non-waterfront single-family lots or 2 non-waterfront dwelling units may be granted such private access for each 100 feet of waterfront width. A 35 foot wide waterfront greenbelt shall be maintained or retained on such waterfront access lots in accordance with the Greenbelt definition of this ordinance; however a 15 foot wide beach strip is permitted at the water's edge.
- 8 Home occupations as described in Montmorency Township Zoning Ordinance definitions.
- 9 Accessory buildings and uses customarily incident to any of the foregoing uses when located on the same lot or parcel of land and not involving the conduct of a business.
- 10 Essential services.
- 11 Public parks, campgrounds and other state or municipally owned or operated public recreational facilities.
- 12 No more than one storage building or shed per lot without a residential dwelling for a period not to exceed five years and utilized for the sole purpose of storage of property maintenance and recreational equipment while the lot owner is making property improvements for future full-time or seasonal occupancy of said lot.
- 13 All decks and stairs are measured from the normal high water mark. They must be to our normal set backs of 7 feet side, 10 feet back and 20 feet front. Docks must meet the 7 foot side lot line set back.
- 14 Family Child Care Homes¹
- 15 State Licensed Residential Facilities¹

¹ Amended 8-11-09; Effective 8-27-09

16 Site development standards:

Zoning District	Minimum Lot Area	Minimum Lot Width	Minimum Front	Minimum Side	Minimum Rear
“RR-1”	10,000 s.f.	100 ft	20 ft	7 ft	10 ft
Waterfront	10,000 s.f.	100 ft	45 ft	7 ft	20 ft
2 fam d.u.	20,000 s.f.	200 ft	45 ft	20 ft	20 ft
3 fam d.u.	30,000 s.f.	300 ft	45 ft	20 ft	20 ft
Non-water					
2 fam d.u.	20,000 s.f.	200 ft	35 ft	20 ft	20 ft
3-4 fam d.u.	30,000 s.f.	300 ft	35 ft	20 ft	20 ft

Special Exception Uses:

- 1 Marinas, boat liverys and associated repair services. Owner/operator must provide and maintain a residential buffer between this special exception use and adjacent residential uses as per Article 16 and Article 17.
- 2 Summer camps on not less than 10-acre parcels. Waterfront camps must provide and maintain a 35 foot wide greenbelt along the waterfront as described in Montmorency Township Zoning Ordinance definitions and a residential buffer between this special exception use and adjacent residential uses as per Article 16 and Article 17.
- 3 Resorts. No golf courses within 1,056 lineal feet (0.2 mile) of a lake, reservoir, or pond with a surface area in excess of 5 acres in order to protect lakes from degradation resulting from run-off of herbicides, pesticides, and fertilizers. Waterfront resorts must provide and maintain a 35 foot wide greenbelt in accordance with the Montmorency Township Zoning Ordinance definitions and a residential buffer as per Article 16 and Article 17.
- 4 Churches and parish halls on non-waterfront lots of 1 acre or more. Churches and parish halls must provide and maintain a residential buffer as per Article 16 and Article 17.
- 5 Restaurants on waterfront lots with a minimum total area of 25,000 square feet and 125 foot frontage along the water’s edge. RR District waterfront restaurants exclude bars, taverns, grills, night clubs, and any establishment with a predominant income derived from the sale of alcoholic beverages. Owner/operator must provide and maintain a 35 foot wide greenbelt as per Montmorency Township Zoning Ordinance definitions and a residential buffer in accordance with Article 16 and Article 17.

- 6 Small retail convenience stores, bait and tackle shops, professional offices, financial services, real estate, beauty and barber shops, boutiques, jewelry, souvenir and gift shops located on non-waterfront lots of a minimum total area of 20,000 square feet. None of the foregoing businesses may exceed a total of 3,000 square feet of retail floor space.
- 7 Motels, bed and breakfast, tourist homes, tourist cabins on non-waterfront lots. One off-street parking space must be provided for each double-occupancy rental unit. Lots must be of sufficient area to accommodate properly functioning private sewage disposal systems while not endangering private well water supplies. All local, state, and federal codes must be satisfied. The owner/operator shall provide and maintain a residential buffer in accordance with Article 16 and Article 17.
- 8 Wind Towers.
- 9 A complex or development of a multiple of “permitted” or designated “special exception” uses which do not comply with all conditions and limitations pertinent thereto but which still comply with the spirit of this ordinance with the approval of the Zoning Board under the procedure and standards specified in the ordinance for special exception uses.
- 10 Group Child Care Homes¹

Article 7
“RM-1” Residential Mobile Home Park

Statement of purpose: In recognition of the growing trend toward mobile homes and mobile home parks and the need for well-located and properly developed areas to accommodate them, this district is designed to provide for such use under appropriate construction and development standards to promote the health, safety, and general welfare of the residents of such areas as well as the residents of adjoining premises. The area zoned for such purposes should be able to accommodate the increased traffic generated from such developments as well as the sanitary requirements of the same. Such area should also be suitable for residential use and should be located as not to impede other more conventional residential developments in the vicinity.

Permitted Uses:

- 1 Mobile home parks, together with accessory buildings and uses customarily incident thereto, including a residence for the mobile home park owner or operator and his family, but excluding any retail sales of mobile homes unless the same are located upon a developed mobile home site; subject, however, to the

¹ Amended 8-11-09; Effective 8-27-09

following conditions and limitations.

2 Conditions and limitations for Mobile Home Parks:

- a. All mobile home parks shall comply with the requirements imposed by Michigan Public Act 419 of 1976 and any and all amendments thereto and with any regulations promulgated there under by the Michigan Mobile Home Commission and the Michigan Department of Public Health.

3 Site development standards:

Minimum lot area = 10 acres
Minimum lot width = 600 feet
Minimum setbacks:
-front = 35 feet
-side = 20 feet
-rear = 50 feet

4 Family Child Care Homes¹

5 State Licensed Residential Facilities¹

Special Exception Uses:

- 1 Farming and agricultural operations, together with a reasonable number of accessory buildings, and the right to sell products, poultry or animals produced, raised or grown upon the premises.
- 2 Essential services.
- 3 Accessory buildings and uses incidental to a mobile home park such as recreational buildings and facilities, laundry facilities, maintenance garage and storage facilities.
- 4 Wind Towers.
- 5 A complex or development of a multiple number of “permitted” or designated “special exception” uses which do not comply with the spirit of this ordinance with the approval of the Zoning Board under the procedure and standards specified in the ordinance for special exception uses.
- 6 Group Child Care Homes²

¹ Amended 8-11-09; Effective 8-27-09

² Amended 8-11-09; Effective 8-27-09

Article 8
“C-1” Commercial District

Statement of Purpose: This district is designed to accommodate retail sales and commercial service uses catering to the general public as distinguished from industry or general business customers.

Permitted Uses:

- 1 Retail sales businesses with less than 4,000 square feet of retail floor space and where no assembling, treatment or manufacturing is required.
- 2 Offices.
- 3 Banks, building and loan associations, credit unions, and other lending institutions.
- 4 Funeral parlors.
- 5 Restaurants.
- 6 Essential services.
- 7 Indoor theaters.
- 8 Hotels, motels, and apartment houses.
- 9 Cleaning and laundry service customer stations.
- 10 Bake shops.
- 11 Barber shops and beauty parlors.
- 12 Shoe repair shops.
- 13 Churches and parish halls.
- 14 Accessory buildings and uses customarily incident to and of the foregoing, not including any manufacturing or treatment activities.
- 15 Site development standards:
 - Minimum lot area 15,000 s.f.
 - Minimum lot width 75 ft
 - Minimum lot front 75 ft

16. Shipping or Manufactured Storage Containers shall be permitted at one (1) per twenty (20) acres. Such structures shall adhere to all regulations relating to standard accessory buildings. *(Amended 2021)*

Special Exception Uses:

- 1 Automatic dry cleaning or laundry/Laundromat facilities.
- 2 Gasoline service stations, automobile repair or public garages, and car washes.
- 3 Super market grocery stores, department or discount stores with retail floor space in excess of 4,000 square feet.
- 4 Outdoor automobile, truck, farm implement, recreation vehicle, boat, and mobile home sales.
- 5 Indoor recreation facilities, such as bowling alley, racquetball club.
- 6 Lumber and building supply yards.
- 7 Automobile body repair and paint shops.
- 8 Shopping malls or neighborhood shopping centers.
- 9 Kennels.
- 10 Any uses allowed as permitted or special uses in any zoning district classification hereinbefore set forth.
- 11 Wind Towers.
- 12 A complex or development of a multiple number of “permitted” or designated “special exception” uses which do not comply with all conditions and limitations pertinent thereto but which still comply with the spirit of this ordinance with the approval of the Zoning Board under the procedure and standards specified in the ordinance for special exception uses.
- 13 Sexually-Oriented Businesses¹

¹ Amended 8-11-09; Effective 8-27-09

Article 9
“I-1 Industrial District

Statement of Purpose: Montmorency Township, although a predominantly resort retirement community in a forested setting, is aware of the need to provide employment opportunities for its present and future residents. For the most part, light industry and small businesses will satisfy such needs for local sustenance. This district is designed to accommodate those types of industrial uses normally associated with this region of the State, such as light manufacturing, assembling, fabrications, servicing, compounding, and commercial businesses, some which require greater outdoor storage or activities than others and which, accordingly may require larger sites and have a greater adverse effect on adjacent properties. Some industrial activities, due to their nature, should be located in isolated areas on sufficiently large, and sometimes screened, sites to minimize any adverse effect emanating there from upon adjacent premises. Industrial developments shall be in accordance with Article 16 and Article 17, and all other pertinent requirements of this ordinance.

Permitted Uses:

- 1 Special exception uses listed in the “C-1” District, such as related to the sale and lease of machinery, equipment, lumber and related construction products, automotive body repair and painting, etc., that because of the nature and scale of their activities could also be accommodated in an industrial district.
- 2 Saw mills and related wood products and fabrication industries.
- 3 Machine, tool and die, welding and related metal fabrication and assembly industries.
- 4 Manufacture and assembly of molded plastics and related products.
- 5 Manufacture and assembly of electronic components and related products.
- 6 Motor freight, warehouse and retail/wholesale distribution centers.
- 7 Heavy construction firms.
- 8 Ready-mix concrete and related concrete products plants.
- 9 Bulk refined fuel storage and supply firms.
- 10 Food products processing.
- 11 Truck tractor, tandem trailer, diesel, construction and related equipment repair and parts distribution firms.

- 12 Grain storage facilities.
- 13 Site development standards:
 - Minimum lot area 10 acres
 - Minimum lot width 400 feet
 - Minimum lot front 75 feet
14. Shipping or Manufactured Storage Containers shall be permitted at one (1) per twenty (20) acres. Such structures shall adhere to all regulations relating to standard accessory buildings. *(Amended 2021)*

Special Exception Uses:

- 1 Sand and gravel pit operations, mining, and extractive type industries.
- 2 Unrefined petroleum products storage and related facilities.
- 3 Asphalt plants.
- 4 Paper and related wood products industries.
- 5 Slaughter houses and related stockyards.
- 6 Junkyards and recycling operations.
- 7 Wind Towers.
- 8 A complex or development of a multiple number of “permitted” or designated “special exception” uses which do not comply with all conditions and limitations pertinent thereto but which still comply with the spirit of this ordinance with the approval of the Zoning Board under the procedure and standards specified in the ordinance for special exception uses.

Article 10
Site Plan Review¹ and Special Exceptions

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

- a. All new uses and/or structures except a) single-family or two-family dwelling units; b) accessory structures to single-family or two-family dwelling units; and c) agricultural buildings.

¹ All text relating to site plan review: Amended 8-11-09; Effective 8-27-09

- b. Expansion or renovation of an existing use, other than single-family or two-family dwelling units and accessory structures thereof and agricultural buildings, which increases the existing floor space more than twenty five (25) percent.
 - c. Changes of use for an existing structure or lot except for the circumstances listed in **subsection 12b (below)**.
 - d. Any use requiring off-street parking, except residential uses.
 - e. Other uses as required by this Ordinance.
2. **Pre-application Conference:** The Zoning Administrator, Planning Commission Chair and/or Planning Commission shall have the authority to conduct a pre-application meeting with the applicant/developer to assist them in understanding the site plan review process, and other ordinance requirements; and to provide insight as to what portions of their proposed development may be of special concern to the Planning Commission. This conference is not mandatory, but is recommended for small and large projects alike. For large projects, a pre-application conference should be held several months in advance of the desired start of construction. Such an advance conference will allow the applicant/developer time to prepare the needed information for the Planning Commission to make a proper review.
3. **Site Plan Data Required:** Each site plan submitted shall contain the following information unless specifically waived, in whole or in part, by the Township Planning Commission. The Planning Commission can waive any or all of the below site plan requirements, when it finds those requirements are not applicable to the proposed development.
- a. Name and address of the property owner(s), developer(s), and designer(s), and their interest in said properties.
 - b. The parcel's legal description.
 - c. The date, a north arrow, the scale and name of the individual or firm responsible for preparing said plan. The scale must be at least one (1) inch = fifty (50) feet for parcels under three (3) acres and not less than one (1) inch = one hundred (100) feet for parcels of three (3) acres or more.
 - d. A certified survey of the property prepared and sealed by a professional licensed surveyor, showing, at a minimum, the boundary lines of the property, all dimensions and legal description.
 - e. Boundary dimensions of environmental features such as forests, water bodies, wetlands, floodplains, high risk erosion areas, slopes over twenty-five (25) percent, drainage and other similar features.

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

(10%) or greater, contours shall be shown at height intervals of two (2) feet or less.

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

and surface), noise and the scale of development in terms of the surrounding environment.

4. Application Submittal Procedures:

- a. Ten (10) copies of the proposed site plan, including all required additional or related information, shall be presented to the Zoning Administrator by the petitioner or property owner or his designated agent at least thirty (30) days prior to the Planning Commission meeting at which the site plan will be considered. The Zoning Administrator will review the materials submitted to assure all information required by the Ordinance has been provided. If the application is incomplete the Zoning Administrator will send a notice with a detailed list of all deficiencies to the applicant. If the site plan, including all required additional or related information, is determined to be complete, the Zoning Administrator shall cause the submittal to be placed on the agenda of the next regular Planning Commission meeting.
- b. The Planning Commission may distribute the site plan to the following agencies or any other agency deemed appropriate for comment prior to consideration for approval.
 - aa. The Montmorency County Soil Erosion and Sedimentation Control Officer;
 - bb. The Montmorency County Drain Commissioner;
 - cc. The Montmorency County Road Commission and, if appropriate, the Michigan Department of Transportation;
 - dd. District Health Department;
 - ee. Local fire and ambulance service providers.
- c. Application fees to cover the estimated review costs as determined by the Township Board shall be paid when the application and site plan are submitted.
- d. Where the applicant is dependent upon the grant of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals shall be necessary before the site plan approval can be granted, or the site plan may be approved subject to favorable action by the Zoning Board of Appeals.
- e. The applicant or his/her representative shall be present at the scheduled review. If the applicant fails to provide representation, the review will be addressed at the next scheduled Planning Commission meeting.

5. Standards for Granting Site Plan Approval:

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

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

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

6. **Approval of Site Plan:**

- a. Within sixty (60) days of the site plan application being found complete, the Planning Commission shall act to approve, approve with modifications and/or conditions, or disapprove the site plan in writing with reasons. The decision of the Planning Commission shall be incorporated into a statement of findings and conclusions which specifies the basis for the decision and any condition(s) imposed. All conditions, limitations and requirements upon which any such permit is granted shall be specified in detail by said board in its decision and shall be filed with the Zoning Administrator of the Township. Any conditions, limitations or requirements upon which approval is based shall be reasonable and designed to protect the natural resources, the health, safety and welfare and the social and economic well-being of the owners and

occupants of the land in question, of the area adjacent thereto and of the community as a whole; constitute a valid exercise of the police power and be related to the purposes which are affected by the proposed use or activity; be consistent with the intent and purpose of the zoning ordinance; designed to insure compatibility with the adjacent uses of land and the natural environment; and designed to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.

- b. If the Planning Commission does not act on the site plan, and put its action in writing within the prescribed time, the site plan shall be conclusively presumed to have been approved. If the proprietor and the Zoning Administrator or Commission mutually agree, the time limit may be extended.
- c. If approved by the Planning Commission, three (3) copies of the site plan shall be signed and dated by both the applicant and Zoning Administrator or Planning Commission Chair. One signed and dated site plan shall be provided to the applicant; one shall be retained by the Zoning Administrator as part of the Township's permanent zoning file, and one copy shall be made part of the Planning Commission's permanent record of proceedings on the site plan.

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

8. **Amendment of Approved Site Plan:**

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

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

- dd. Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
 - ee. Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - ff. Changes that will preserve the natural features of the site without changing the basic site layout.
 - gg. Changes related to item a) through f) above, required or requested by Montmorency Township, Montmorency County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval.
 - hh. All amendments to a site plan approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the Applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the zoning administrator to sign and date all approved amendments.
- b. An amendment to an approved site plan that cannot be processed by the Zoning Administrator under **subsection (8a)** above shall be processed in the same manner as the original site plan application.

9. Expiration of Site Plan:

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

10. Conditional Approvals: The Planning Commission may impose reasonable conditions with the approval of a final site plan.

11. Performance Guarantee: The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a final site plan.

12. Site Plan Waiver: The Zoning Administrator may waive site plan review requirements and, in the case of a use that would normally require Planning

Commission approval, the stated review and approval procedures by the Planning Commission in any of the following cases where he or she determines that the submission of a site plan and adherence to the stated review and approval procedures by the Planning Commission would serve no useful purpose:

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

13. Special Exception Standards

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 Zoning Board, 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 Exceptions Uses have been selected because of the unique characteristic of the use which, in the particular zone involved, under certain circumstances and without proper controls and limitations, might cause it to be incompatible with the other uses permitted in such zoning district and accordingly detrimental thereto.

¹The Planning Commission shall approve, or approve with conditions, an application for a Special Exception Use only upon finding that the proposed Special Exception Use complies with all the following standards:

- a. **Allowed Special Exception Use:** The property subject to the application is located in a zoning district in which the proposed Special Exception Use is allowed.
- b. **Compatibility with Adjacent Uses:** The proposed Special Exception Use shall be designed, constructed, operated and maintained to be compatible and appropriate in appearance with existing or planned uses and the intended character of the area and the surrounding land. In determining whether a Special Exception Use will be compatible and not create a significant detrimental impact, as compared to the impacts of permitted uses, consideration shall be given to the degree of impact the Special Exception Use may have on adjacent property, as compared with the expected value to the community. The following types of impacts shall be considered:

¹ *Special Exception Use Standards: Amended 8-11-09; Effective 8-27-09*

- aa. Use activities, processes, materials, equipment, or conditions of operation;
- bb. Vehicular circulation and parking areas;
- cc. Outdoor activity, storage and work areas;
- dd. Hours of operation;
- ee. Production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light;
- ff. Impacts on adjacent property values; and
- gg. The relative ease by which the impacts above will be mitigated.

c. Public Services:

- aa. The proposed Special Exception Use will not place demands on fire, police, or other public resources in excess of current capacity.
- bb. The proposed Special Exception Use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.

- d. **Economic Well-Being of the Community:** The proposed Special Exception Use shall not be detrimental to the economic well-being of the surrounding residents, businesses, landowners, and the community as a whole.
- e. **Compatibility with Natural Environment:** The proposed Special Exception Use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the township or the natural environment as a whole.
- f. **Impact of Traffic on Street System:** The location and design of the proposed Special Exception Use shall minimize the negative impact on the road system in consideration of items such as vehicle trip generation (i.e. volume), types of traffic, access location and design, circulation and parking design, street and bridge capacity, traffic operations at proposed access points, and traffic operations at nearby intersections and access points. The proposed Special Exception Use shall not cause traffic congestion, conflict or movement in greater proportion to that normally prevailing for the use in the particular zoning district.
- g. **Non-Detrimental Standards:** The proposed Special Exception Use shall not involve uses, activities, processes, materials, equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare

by reason of noxious or offensive production of noise, smoke, fumes, glare, vibration, odor or traffic.

Earth Removal, Topsoil Removal, Quarrying, Gravel Processing, Mining and Related Mineral Extraction Businesses. Prior to the approval by the Zoning Board of a special exception use for earth removal, quarrying, gravel processing, mining and related mineral extraction businesses in any area of the Township, said board shall be satisfied the following conditions and limitations are, or shall be, strictly complied with, in addition to any other requirements contained in the Township Zoning Ordinance or in any other Township ordinance controlling such operations.

1. All such operations shall be located on a primary road or “all weather” road, as defined by the County Road Commission, for ingress and egress thereto, or on a road which does not create traffic through an area developed primarily for residential purposes.
2. Minimum lot area shall be 40 or more acres and such lot area shall be determined by the nature and scope of the extractive activity.
3. Sufficient setbacks shall be provided from all property lines and public and private roads to assure adequate lateral support for adjacent public and private property. No such excavation operation shall be permitted closer than 150 feet to interior boundary lines of the property or such larger setback as may be required by the Zoning Board to adequately protect adjoining properties.
4. No such excavation, topsoil removal or mining operation shall be located within the channel or floodplain of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission, Michigan Department of Natural Resources, or Michigan Department of Environmental Quality (DEQ). Prior to review by the Zoning Board all plans for earth removal or excavation disturbing one acre or more of land or located within 500 feet of a lake or stream shall be reviewed and approved, in writing, by the Montmorency County Soil Erosion Control Officer for compliance with the soil erosion and sedimentation control requirements of Michigan Act 347 of 1972. No excavation, topsoil removal or mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties.
5. A heavy-gauge cattle wire fence posted with warning signs shall be erected and maintained around the perimeter of the excavation pit to prevent injury to curious children and others.
6. Sight barriers shall be provided along all boundaries of the site which lack sufficient natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of a 35 foot wide greenbelt buffer strip to

be retained, created, or maintained around the boundaries of the site.

7. Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area or immediately upon termination of the mining or excavation activities in areas of one acre or more. Substantial completion of reclamation and rehabilitation shall be effected within one year after termination of mining or excavation activity. Inactivity for a 12month consecutive period shall constitute, for this purpose, termination of mining activity. The following standards shall control reclamation and rehabilitation:
 - a. All excavation shall be either to a water-producing depth of not less than five feet below the average summer level of water in the excavation, or shall be graded or back-filled with non-noxious, non-inflammable and non-combustible solids to insure that the excavated area shall not collect stagnant water and not permit the same to remain therein; or that the surface of such areas which are not permanently submerged is graded or back-filled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
 - b. The banks of all excavations shall be sloped to the waterline in a water-producing excavation, and to the pit floor in a dry operation at a slope which shall not be steeper than one foot vertical to three feet horizontal.
 - c. Top soil of a quality to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are to be completed within a one year period. Where used, topsoil shall be applied to a depth sufficient to support vegetation during the following growing season.
 - d. Vegetation shall be restored by the appropriate seeding of grasses and/or the planting of native trees and shrubs to establish a permanent vegetative cover on the land and to minimize erosion.
 - e. Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time not to exceed 12 months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.
8. Nothing in this section shall be interpreted to require a special exception permit for normal agricultural maintenance activities conducted in conformance with generally accepted agricultural management practices.

These practices are described in state rules issued pursuant to Michigan Act 240 of 1987, the Right to Farm Act. For the purpose of this section, animal manure, composted manure and vegetative composts are not considered to be topsoil and therefore may be removed in conformance with generally accepted agricultural management practices.

9. For topsoil removal operations, the requirements of subsections 1, 2, 3, 5 and 6 above may be waived or modified if the Zoning Board of Appeals finds them inappropriate. In the Agricultural District (AG), topsoil removal shall be allowed only from sites which are agriculturally nonproductive or have low agricultural productivity. When reviewing topsoil removal proposals for such areas, the Zoning Board may consult appropriate sources of information on agricultural productivity, including but not limited to: on-site inspection, comments by knowledgeable local farmers, soil maps, crop production or forestry records, or information supplied by the Soil Conservation Service and the Soil and Water Conservation District.
10. Removal or replacement of topsoil and/or subsoil for the purpose of constructing a septic system to meet state and local health requirements shall be exempt from Township requirements under this section. However, review by the Montmorency County Soil Erosion Control Officer may be required, per subsection 4 above.

Type III Landfill Operations will be reviewed and considered utilizing all aforementioned applicable Special Exception Use procedures and/or procedures, rules, and regulations promulgated by the Michigan Department of Natural Resources as specified in Michigan Public Act 641 or Michigan Department of Environmental Quality (DEQ), as amended governing solid waste management and any other applicable local and state codes and regulations.

Solid Waste Transfer Facilities will be reviewed and considered utilizing all aforementioned applicable procedures for Special Exception Use as stipulated in this ordinance.

Group Child Care Homes¹

A Special Exception Use permit will be issued if the group child care home meets all of the following conditions:

1. Is not located closer than fifteen hundred 1,500 feet to any of the following:
 - a. Another licensed group day care home.
 - b. An adult foster care home or large group home licensed under the adult

¹ Amended 8-11-09; Effective 8-27-09

foster care facility licensing act, 1979 PA 218.

- c. A facility offering substance abuse treatment and rehabilitation service or seven (7) or more people licensed under Article 6 of the public health code, 1978 PA 368.
 - d. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
2. Has at least four hundred (400) square feet of fenced outdoor space.
 3. Maintains the property consistent with the visible characteristics of the neighborhood.
 4. Does not exceed sixteen (16) hours of operation during a twenty-four (24)-hour period.

Wind Energy Facilities¹

1. Wind Energy Facilities: Purpose and Goals

- a. The purpose of this section is to establish guidelines for siting wind turbines and wind energy facilities. This section's goals are as follows:
 - aa. To promote the safe, effective, and efficient use of wind turbines and wind energy systems installed to reduce on-site consumption of electricity supplied by utility companies.
 - bb. To lessen potential adverse impacts that wind turbines and wind energy facilities may have on residential areas and land uses through careful design, siting, noise limitations, and innovative camouflaging techniques.
 - cc. To avoid potential damage to adjacent properties from turbine failure through proper siting of turbine structures.
2. **Small On-Site Wind Energy Systems:** A wind energy conversion system which is intended to primarily serve the needs of the property upon which it is located shall be considered an accessory structure and shall be permitted by right. The following site development standards shall apply:
 - a. **Design & Installation:** All wind turbine generators (ground and roof-mounted) shall comply with the currently adopted County building code. The installation of the wind turbine shall meet manufacturer's specifications.

¹ *Wind Energy Facility Regulations: Amended 8-11-09; Effective 8-27-09*

- b. **Blade Clearance:** There shall be a minimum vertical blade tip clearance from the ground of twenty (20) feet.
- c. **Guy Wires:** If the small wind energy system is supported by guy wires, such wires shall be visible to a height of at least six (6) feet above the ground.
- d. **Setbacks:** Each small wind energy system shall be set back from an adjoining lot line or a public or private road right-of-way a distance equal to the total height of the wind turbine generator. The Planning Commission may reduce the setback if the neighboring property is under the same ownership or based on other factors such as topography specific to the site. No part of the wind turbine generator, including guy wire anchors, may extend closer to the property line or waterfront than the required setback for the district in which the unit is located.
- e. **Setback from Structures:** Each wind turbine generator shall be setback from the nearest inhabited structure, which is not under the same ownership or on the same property, a distance equal to the total height of the wind turbine generator. Each wind turbine generator shall be setback a minimum of ten (10) feet from a structure under the same ownership or on the same property as the wind turbine generator.
- f. **Noise:** Small wind energy systems shall not cause a sound pressure level in excess of fifty-five (55) dB(A) or in excess of five (5) dBA above the background noise, whichever is greater, as measured at the nearest property line. This level may be exceeded during short-term events such as utility outages and severe wind storms.
- g. **Vibration:** Small wind energy systems shall not cause vibrations through the ground which are perceptible beyond the property line of the parcel on which it is located.
- h. **Reception Interference:** Small wind energy systems shall not cause interference with television, microwave, navigational or radio reception to neighboring areas.
- i. **Shadow Flicker:** Small wind energy systems shall not cause shadow flicker upon any structure on a neighboring property. The property owner of a wind turbine shall make reasonable efforts to minimize shadow flicker to any occupied building on nearby properties.
- j. **Potential Ice Throw:** The potential ice throw or ice shedding for the wind turbine generator shall not cross the property lines of the site nor impinge on any right-of-way or overhead utility line.
- k. **Safety:** A small on-site wind energy system shall have an automatic system to prevent uncontrolled rotation.

1. **Other Regulations:** On-site use wind energy systems shall comply with all applicable State construction and electrical codes, Federal Aviation Administration requirements, Michigan Aeronautics Commission requirements, the Michigan Tall Structures Act (P.A. 259 of 1959, as amended), and the Michigan Public Service Commission and Federal Energy Regulatory Commission standards.

3. **Commercial Wind Energy Facilities:** Wind energy facilities consisting of one (1) or more wind turbines whose main purpose is to supply electricity to off-site customers shall be allowed as a Special Exception Use and shall adhere to the following requirements in addition to the requirements contained in Article pertaining to Site Plan Review and Special Exception Uses.
 - a. **Principal or Accessory Use**

A wind energy facility or anemometer tower may be considered either a principal or an accessory use. A different existing use or an existing structure on the same parcel shall not preclude the installation of a wind energy facility or a part of such facility on such parcel. Wind energy facilities that are constructed and installed in accordance with the provisions of this Article shall not be deemed to constitute the expansion of a nonconforming use or structure.

 - b. **Sufficient Wind Resources**

The proposed site shall have documented annual wind resources sufficient for the operation of the proposed wind turbine generator; provided, however, this standard shall not apply to an anemometer tower. No wind turbine generator shall be approved without submission of a wind resource study documenting wind resources on the site. Said study shall indicate the long term commercial economic viability of the project. The Township may retain the services of an independent, recognized expert to review the results of the wind resource study prior to acting on the application for special approval.

 - c. **Design & Installation**

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

 - d. **Minimum Site Area**

The minimum site area for a wind turbine generator or an anemometer tower erected prior to a wind turbine generator shall be as necessary to meet required wind energy setbacks and any other standards of this Article.

e. **Setbacks**

Each proposed wind turbine generator or anemometer tower shall meet the following applicable setback requirements:

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

f. **Maximum Height**

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

g. Tower Separation

Wind turbine separation distance shall be based on 1) industry standards, 2) manufacturer recommendation, and 3) the characteristics (prevailing wind, topography, etc.) of the particular site location. At a minimum, there shall be a separation between the towers of not less than three (3) times the turbine rotor diameter. Documents shall be submitted by the developer/manufacturer confirming specifications tower separation.

h. Minimum Ground Clearance

The lowest point of the arc created by rotating wind vanes or blades on a wind turbine generator shall be no less than twenty (20) feet.

i. Maximum Noise Levels

The sound pressure level generated by the wind energy system shall not exceed fifty-five (55) dB(A) measured at neighboring property lines. If the ambient sound pressure level exceeds fifty-five (55) dB(A), the standard shall be ambient plus five (5) dB(A).

j. Maximum Vibrations

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

k. Potential Ice Throw

The potential ice throw or ice shedding for the wind turbine generator shall not cross the property lines of the site nor impinge on any right-of-way or overhead utility line.

l. Signal Interference

No wind turbine generator shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antennas for radio, television, navigation, wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No wind turbine generator shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference with the link's operation.

m. Visual Impact, Lighting, Power Lines:

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

n. Shadow Flicker:

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

o. Safety:

- aa. All collection system wiring shall comply with all applicable safety and stray voltage standards.
- bb. Wind turbine towers shall not be climbable up to fifteen (15) feet above the ground surface.
- cc. All access doors to wind turbine towers and electrical equipment shall be locked.
- dd. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet above the ground.
- ee. Appropriate warning signs shall be placed on wind turbine towers, electrical equipment, and facility entrances.
- ff. All wind turbine generators shall be equipped with controls to control the rotational speed of the blades within design limits for the specific wind turbine generator.
- gg. Wind turbine generators shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

p. State or Federal Requirements.

Any proposed wind turbine generator anemometer tower shall meet or exceed any standards and regulations of the Federal Aviation Administration (FAA), Michigan Aeronautics Commission (MAC), the Michigan Public Service Commission, National Electric Safety Code, Federal Energy Regulatory Commission, and any other agency of the state or federal government with the authority to regulate wind turbine generators or other tall structures in effect at the time the Special Land Use approval is approved.

q. Hazard Planning.

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

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

r. Approvals

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

s. Removal of Wind Turbine Generators

- aa. The applicant shall submit a decommissioning plan. The plan shall include:

- i. The anticipated life of the project.
 - ii. The estimated decommissioning costs in current dollars. Such costs shall not include credit for salvageable value of any materials.
 - iii. The method of ensuring that funds will be available for decommissioning and restoration.
 - iv. The anticipated manner in which the project will be decommissioned and the site restored.
- bb. Any wind turbine generator or anemometer tower that is inoperational for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such wind turbine generator or anemometer tower shall remove the same within one hundred eighty (180) days of abandonment. Failure to remove an abandoned wind turbine generator or anemometer tower within the one hundred eighty (180) day period provided in this subsection shall be grounds for the Township to remove the wind turbine generator or anemometer tower at the owner's expense.
- cc. In addition to removing the wind turbine generator, or anemometer tower, the owner shall restore the site of the wind turbine generator or anemometer tower to its original condition prior to location of the wind turbine generator or anemometer tower, subject to reasonable wear and tear. Any foundation associated with a wind generator or anemometer tower shall be removed to a minimum depth of five (5) feet below the final grade and site vegetation shall be restored.
- dd. The Planning Commission shall require the owner of the wind turbine generator to deposit a performance guarantee in an amount equal to the estimated costs associated with the removal of the wind turbine generator or anemometer tower and all associated equipment and accessory structures and restoration of the site to a reusable condition which shall include the removal of all underground structures to a depth of five (5) feet below the natural ground level at that location. The amount of the performance guarantee shall be reviewed every five (5) years. The amount of the performance guarantee shall be increased based on an inflation rate equal to the average of the previous ten (10) years Consumer Price Index.

t. **Equipment Replacement**

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

Special Exception Procedure:

1. All applications for Special Exception Use Permits shall be filed with the Township Zoning Administrator and shall include pertinent plans, specifications, and other data upon which the applicant intends to rely for a Special Exception Use Permit.
2. The Zoning Administrator will review the materials submitted to assure all information required by the Ordinance has been provided. If the application, including all required additional or related information, is determined to be complete, the Zoning Administrator shall cause the submittal to be placed on the agenda of the Planning & Zoning Commission meeting as a public hearing after notice has been provided in accordance with **Article 35**¹.
3. Following such hearing, such board shall either grant, deny or reconsider a permit for such Special Exception Use and shall state its reasons for its decision on the matter. The decision of the Planning Commission shall be incorporated into a statement of findings and conclusions relative to the Special Exception Use which specifies the basis for the decision and any condition(s) imposed¹. All conditions, limitations and requirements upon which any such permit is granted shall be specified in detail by said board in its decision and shall be filed with the Zoning Administrator of the Township. Any conditions, limitations or requirements upon which approval is based shall be reasonable and designed to protect the natural resources, the health, safety and welfare and the social and economic well-being of the owners and occupants of the land in question, of the area adjacent thereto and of the community as a whole; constitute a valid exercise of the police power and be related to the purposes which are affected by the proposed use or activity; be consistent with the intent and purpose of the zoning ordinance; designed to insure compatibility with the adjacent uses of land and the natural environment; and designed to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
4. The Zoning Board shall have the right to limit duration of a Special Exception Use where the same is of a temporary nature and may reserve the right of annual review of compliance with the conditions and limitations imposed upon such use. Any use failing to comply with such conditions and limitations may be terminated by action of said board after a hearing upon application of any aggrieved party.
5. The plot plan and specifications and all conditions, limitations and requirements imposed by the Board shall be recorded with the Township and shall be incorporated as a part of the special exception permit. Violations of any of these at any time shall cause revocation of said permit and said special exception use

¹ Amended 8-11-09; Effective 8-27-09

shall cease to be a lawful use.

6. Any property which is the subject of a special exception permit which has not been used for a period of six (6) months (without just cause being shown which is beyond the control of the owner and which is acceptable to the Zoning Board) 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 shall thereupon terminate.
7. To insure compliance with the zoning ordinance and any conditions, limitations or requirements imposed by the Zoning Board as necessary 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 area, the Zoning Board may require a cash deposit, certified check or irrevocable bank letter of credit or surety bond covering the estimated cost of furnishing such condition, limitation or requirement conditioned upon the faithful completion of the required improvement. Such security shall be deposited with the Township Treasurer at the issuance of the permit authorizing the commencement of such construction activity. Where the improvement required will take more than six months to be

completed, the Zoning Board may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

Article 11

Non-Conforming Uses, Structures and Lots

The following regulations shall control lawful non-conforming uses in existence at the time of passage of this ordinance.

- A. Lawful non-conforming uses in existence at the time of passage of this ordinance may be continued and the structures housing such uses may be repaired to maintain a structurally safe and sound condition. Additional modernizations or improvements may be made, providing the improvements do not result in enlargement of a structure where a nonconforming use is carried on. An existing structure which houses a conforming use but does not meet minimum square footage requirements for the zone may be altered, improved or enlarged, providing such alterations maintain or increase the existing square footage, and meet all setback and lot coverage ratio requirements for that zone.
- B. A non-conforming building damaged by fire, explosion, act of God, or the public enemy, exceeding one-half of its usable cubic or floor space at the

time of damage shall not be repaired except in conformity with the provisions of this ordinance, and approval of the Zoning Board of Appeals. All repairs shall be completed within two years from the date of the damage.

- C. If the non-conforming use of any land or structure shall terminate for a continuous period of time exceeding two years, such use shall not be re-established and any future use of land and structure shall be in conformity with this ordinance.
- D. If a non-conforming use is changed to a permitted or more restrictive use in the district in which it is located, it shall not revert or be changed back to a nonconforming less restrictive use.
- E. Notwithstanding the foregoing, a home located in a zone which does not permit the same may still be altered, expanded and/or rebuilt.
- F. A home and any residential accessory buildings located on a non-conforming residential lot of record may be repaired, improved, expanded or re-built, providing such alterations meet all setback and lot coverage ratio requirements applicable to the respective zoning district.

Article 12

Setback and Side Line Spacing

- A. In the “AG” Agricultural District there shall be a setback from all road right-of-way lines of not less than 35 feet for all buildings, no building in such district shall be erected closer than 20 feet to the interior side line or 50 feet from the rear line of the lot or parcel of property upon which the building is located.
- B. In the “R-1” Residential District, and “RM-1” Residential Mobile Home Park District there shall be a setback from all street right-of-way lines of not less than 35 feet for all buildings, provided that when 25% or more of all the frontage on one side of a street between two intersecting streets has, at the time of the passage of this ordinance, been built up with permanent residences, the average setback of such residences, but not more than 35 feet, shall be the minimum setback line for that side of such street between such intersecting streets; no building in such district shall be erected closer than 20 feet to the interior side or 50 feet of the rear line of the lot or parcel of property upon which the building is located. When computing built-up frontage for a permanent residence, there shall be included the dwelling and curtilage thereof.
- C. In the “RR-1” Resort Residential District (waterfront lots) where such lots have

frontage along lakes, ponds and reservoirs with a surface area in excess of 5 acres and/or frontage along a constantly running river, stream or creek, exclusive of intermittent streams and drainage ditches, rear setback shall be not less than 45 feet from the ordinary high water mark of such water body for all buildings; no building in the "RR-1" (waterfront lot) District shall be erected closer than 7 feet to the interior side or 20 feet from a lot line abutting a street right-of-way of the lot or parcel of property upon which the building is located. When computing built-up frontage for a permanent residence, there shall be included the dwelling and curtilage thereof. In the "RR-1" District (non-waterfront lots) where such lots have frontage along streets or roads, there shall be a setback from all street right-of-way lines of not less than 20 feet for all buildings, provided that when 25% or more of all the frontage on one side of a street between two intersecting streets has, at the time of passage of this ordinance, been built up with permanent residences, the average setback of such residences, but not more than 20 feet, shall be the minimum setback line for that side of such street between such intersecting streets; no building in such district shall be erected closer than 7 feet to the side and back of the line of the lot or parcel of property upon which the building is located. All permanent dumpsters must be to our normal setbacks (7 feet side and back, 20 feet front). When computing built-up frontage for a permanent residence, there shall be included the dwelling a curtilage thereof.

- D. In Class "C-1" Commercial District and "I-1" Industrial District, the minimum setback line for commercial and industrial buildings shall be 75 feet from all street/road right-of-way lines abutting the property and there shall be a minimum setback line for the parking and storage of automobiles and vehicles outside buildings or structures of not less than 25 feet; provided, however, that in any such districts where there are commercial and industrial buildings (other than private residences or buildings originally constructed as private residences) already existing on the effective date of this amending ordinance, on the side of the street between two intersecting streets, the minimum setback for buildings on such side of the street between such intersecting streets shall be to the depth as established by such existing commercial or industrial building which is closest to the street line. In no event, however, shall vehicle parking be allowed on private premises closer than 25 feet to the street right-of-way line abutting such premises except where such parking is presently being conducted on the effective date of this ordinance, and no other parking beyond said 25 foot setback requirement. There shall be no side or rear line restriction for interior lot lines for commercial or industrial districts unless otherwise specified in this ordinance. Any residential buildings, however, constructed within said district shall be set back not less than five feet from such interior, side and rear lot lines.
- E. It is further provided that notwithstanding anything herein contained to the contrary, the minimum setback line shall be 15 feet for gasoline pumps, display racks, air pumps, and other equipment; 75 feet for cars, stored or placed upon property used for storage of, or occupancy by, junk cars or used cars for the

purpose of sale of parts or junk there from; and 25 feet for cars and other vehicles on property used for sale of used cars. The minimum setback line for poultry or animal shelters, coops, barns, or sheds shall be 75 feet; provided, however, that in platted property no such structure shall be erected closer than 20 feet to the interior side line of the lot upon which such structure is located.

- F. No temporary outside toilets shall be erected closer than 15 feet to the side line of the premises upon which such structure is to be placed; provided, however, that such structure shall not be erected closer than 25 feet to any building being used as a permanent habitation upon adjoining premises.

Article 13 **Area Requirements**

All private dwelling units hereafter constructed containing not more than two bedrooms shall contain not less than 720 square feet of habitable floor space. All private dwelling units hereafter constructed containing more than two bedrooms shall contain an additional 150 square feet of habitable floor area for each bedroom in excess of two within said dwelling unit; provided, however, that a three-bedroom, single-level private dwelling unit shall contain not less than 900 square feet of habitable floor space. All measurements and area requirements herein set forth shall be computed without regard to porches, garages, breezeways, and carports.

Article 14 **Off-Street Parking of Motor Vehicles**

- A. Every property owner shall provide and maintain at all times an adequate number of off-street parking spaces, and the necessary loading and unloading facilities associated thereto in each district for all occupants, employees and patrons of said property.
- B. A plan showing the required parking and loading spaces including the means of access and interior circulation, except for one-family and two-family dwellings, shall be provided at the time of application for a building permit for the erection or enlargement of any building.
- C. Parking space shall be provided in the manner and location herein specified.
 - 1. No parking area, parking space or loading space which exists at the time this ordinance becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this ordinance shall thereafter be relinquished or

reduced in any manner below the requirements established by this ordinance unless additional parking area or space is provided sufficient for the purpose of complying with the provisions of this ordinance within 300 feet of the proposed or existing uses for which such parking will be available.

D. Requirements for all parking spaces and parking lots:

1. Each automobile parking space shall not be less than 200 square feet nor less than 10 feet wide (20 ft. X 10 ft.) exclusive of driveway and aisle space.
2. All off-street parking facilities shall be drained so as to prevent damage to abutting properties or public streets.
3. Any lighting fixtures used to illuminate any off-street parking area shall be arranged as to reflect the light away from any adjoining residential lots.
4. No parking space shall be closer than five feet from the property lines.
5. Off-street parking facilities in non-residential zones shall be effectively screened on any side which adjoins or faces property in any residential zone by a wall, fence or compact planting not less than four feet or more than eight feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property. Screening shall not be so placed or maintained as to provide a traffic hazard through hazard through obstruction of visibility.
6. All off-street parking area that make it necessary for vehicles to back out directly into a public road are prohibited, providing that this prohibition shall not apply to off-street parking areas of one or two-family dwellings.
7. Space for necessary loading and unloading operations for any commercial, industrial or other use must be provided in addition to the required off-street parking space. All loading and unloading operations must be carried on entirely within the lot area of the use it serves and shall not interfere with pedestrian or vehicular movement.
8. Requirements for the provision of parking facilities with respect to two or more property uses of the same or different types may be

satisfied by the permanent allocation of the requisite number of spaces for each use in a common parking facility, cooperatively established and operated, provided that the number of spaces designated is not less than the sum of individual requirements and provided further that the specifications in regard to location, plan, etc., are complied with.

9. The number of parking spaces required for land or buildings used for two or more purposes shall be the sum of the requirements for the various individual uses, computed in accordance with this section; parking facilities for one use shall not be considered as providing the required parking facilities for any other use.

E. Minimum Required Parking Spaces:

1. Dwellings: Two parking spaces per family unit.
2. Banks, offices, professional offices: one parking space for each 100 square feet of usable floor space with a minimum of 4 spaces.
3. Retail stores, supermarkets, department stores, personal service shops, and shopping centers: one parking space for each 150 square feet of usable floor space.
4. Churches, theaters, and auditoriums, except schools: one for each four seats.
5. Bowling alleys: three for each bowling lane.
6. Community center, library, museum or art center: ten plus one additional for each 200 square feet of floor area in excess of 2,000 square feet.
7. Hospitals, clinics, and similar establishments: one for each four beds and one for each two employees or staff members.
8. Laundromats: one for each two washing machines.
9. Motels, tourist homes, bed and breakfast, lodging house: one for each sleeping room.
10. Manufacturing or industrial establishments, warehouse or similar establishment: two for every three employees on maximum working shift plus space to accommodate all vehicles used in connection with the operations of the establishments.

11. Plumbing, printing and similar service shops and businesses: one for each two persons employed.
12. Private clubs, night clubs, dance halls, restaurants: one for each 100 square foot of floor area.
13. High school: one for each six seats in main auditorium or three for each classroom, whichever is greater.
14. Schools (except high schools): one for each ten seats in main assembly room or four spaces plus one additional space for each classroom, whichever is greater.
15. Loading and unloading space: every building or structure engaged in loading and unloading goods shall provide space on the premises in addition to that required for parking for the loading, unloading and standing for all vehicles to avoid undue interference with public use of the highway.
16. Roadside stand: two parking spaces.
17. Other uses not specifically mentioned: in case of buildings which are used for uses not specifically mentioned, those provisions for off-street parking facilities for a use which is so mentioned and to which said use is similar in terms of parking demand shall apply.
18. Mixed uses in the same building: in the case of mixed uses in the same building, the amount of parking space for each use specified shall be provided and the space for one use shall not be considered as providing required spaces for any other use except as to churches and auditoriums incidental to public and parochial schools permitted herein.

- F. The Zoning Board of Appeals shall have the authority to grant variances from the foregoing where it is satisfied under the circumstances prevailing that the requirements for off-street parking are unnecessarily too large for the particular development.

Article 15
Use District Boundaries

The location and boundaries of the zones established in the Township shall be shown on a map entitled Zoning Map of Montmorency Township and said map, section, or portion thereof, together with all notations, dimensions and other data shown thereon, are hereby made a part of this ordinance to the same extent as if the information set forth on

said map were fully described and incorporated herein.

The official copy of the Zoning Map, properly attested shall be in the custody of the Township Clerk.

Such zoning map may be amended from time to time to reflect changes in zones and the rezoning of property shown thereon in the same manner as amendments may be made to the text of this zoning ordinance. Such changes shall be recorded to scale on duplicate copies of the original official zoning map and shall be accomplished by written legal descriptions in appropriate amending ordinances.

Article 16 **Residential Buffer Area**

Although this ordinance provides classifications for Commercial and Industrial districts, the number and scattered location of commercial and industrial uses did not lend to the delineation of such districts on the Zoning Map of Montmorency Township at the effective date of this ordinance. Until definitive commercial and industrial land use patterns evolve meriting such delineation on said map, such uses shall be accommodated as Special Exception Uses within the Residential and Agricultural districts established in this ordinance and delineated on said zoning map.

In order to protect the existing dwellings in the AG, R-1, and RR-1 districts, as well as to provide protection to dwellings impacted by absorption and evolution into future C-1 and I-1 districts and any future delineation of an RM-1 district, it is herein provided that no new commercial or industrial activities or structures shall hereafter be located closer than 100 feet to any such existing dwelling which is occupied for dwelling purposes and further such new commercial or industrial structure or activity shall be screened from such adjoining dwelling in accordance with the provisions of Greenbelt as described in Montmorency Township Zoning Ordinance definitions and/or Article 17 of this ordinance, or whichever provides the most appropriate and satisfactory buffer.

The foregoing provision shall not, however, operate to reduce the useable area of the adjoining commercial or industrial property under bona fide separate ownership on the effective date of this ordinance below 50%. If the same would cause such a result, this buffer area shall be accordingly reduced to permit such 50% use.

Article 17 **General Lighting and Screening Requirements**

- A. **Lighting.** All lighting upon any premises, regardless of zone, shall be so arranged that such lighting does not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining premises or the traveling public on public

highways.

B. **Screening.** Except as otherwise provided in this zoning ordinance, all premises used for business, commercial or industrial purposes and located within a "C-1" Commercial District shall be screened from adjoining premises located in any Residential District classification by any of the following:

1. A natural compact planting area of evergreens or shrubbery which maintain their density and screening effect throughout the calendar year, not less than four feet in height at the time of planting and maintained in a neat and attractive manner commensurate with the adjoining residential district.
2. An artificial wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants or adjoining premises, not less than five feet in height and maintained in a neat and attractive manner, commensurate with the adjoining residential district.
3. No such planting area shall be closer than 10 feet from any adjoining right-of-way line.

C. **Fences.** *(Amended 2021)*

1. Fences require a zoning permit except for the following:
 - a. Hedges which are used as fences shall not require a zoning permit but shall comply with subsections C.2, C.3, and C.4.
 - b. A single strand of wire fencing used only to mark a property line shall be exempt from this Section and no zoning permit shall be required.
 - c. Fences used for agricultural purposes shall not be subject to the provisions of this Section.
2. **Property Line Determination:** In the installation of any fence, the property owner is responsible for the location of property lines and obtaining a professional survey if recommended. Montmorency Township shall not be held responsible for any property line or fence disputes between adjacent property owners.
3. **Height and Setback.** Notwithstanding other provisions in this Ordinance, fences may be permitted on any residential property provided that no fence exceed a height of six (6) feet and shall be no closer than five (5) feet from the front property line or road right-of-way. On the side and rear

property lines, the fence may abut the property line, but if it is on the property line, in platted subdivisions, there must be a written agreement signed by both parties and kept with the permit.

4. **Waterfront Lots:** Where a lot borders a lake or stream, fences shall be set back from the ordinary high water mark by twenty-five (25) feet at minimum. Further, a fence placed in any part of the lot lying between the principal building and the ordinary high water mark shall not exceed four (4) feet in height, unless approved as a Special Use Permit. In reviewing any Special Use Permit application for a fence exceeding four (4) feet in height on the waterfront side of such lot, the Planning Commission shall consider whether or not the proposed fence unreasonably restricts waterfront views of neighboring residents, or may in the future.
5. **Fence Posts.** Fence posts shall be placed on the inside of the property line of the owner erecting the fence.
6. **Finished Side of Fence.** The portions of all fences facing property other than the property of the fence owner or facing a street right-of-way shall be finished and constructed so that, to the extent possible by the design of the fence, the fence posts and the horizontal and/or vertical fence supports are not visible from that other property or from the street right-of-way.
7. **Materials.** Fence materials may include materials commercially designed for fence construction. Scrap lumber, plywood, woven wire (except for agricultural purposes), sheet metal, plastic or fiberglass sheets, old signage, old doors, or other materials not commercially designed for fence construction are specifically prohibited.

In the event of any controversy, subsequent to the Zoning Administrators decision as to the adequacy of any proposed or existing screening or the creation of any nuisance or annoyance by artificial lighting, the Zoning Board of Appeals shall have the right and is hereby given the authority to determine whether the same is in violation of these screening and lighting provisions and the purpose herein sought to be accomplished of the screening of abutting business and residential properties and the prevention of nuisance from artificial lighting.

Article 18 Tents, Travel Trailers and Motor Homes

Tents, travel trailers and/or motor homes shall not be used for dwelling purposes within the Township limits for more than 30 days per year; provided however, that travel trailers or motor homes may be used for temporary dwellings for a total of not more than 183 days in any one year when located upon premises having running water and sewage facilities, and provided further that automobile trailers and travel trailers may be occupied

for dwelling purposes within duly licensed travel trailer camps and subject to the requirements thereupon imposed.

A permit may be secured from the Zoning Administrator to use a tent, travel trailer or motor home as a temporary residence for a period not to exceed one year provided that the ability and intent to erect a house on the premises is shown; provided that the tent, travel trailer or motor home is located upon premises having running water and sewage facilities; and provided further that upon expiration of the one-year period, the Zoning Administrator may renew the permit for an additional period of one year upon sufficient showing that the house construction could not be completed within said one year but has substantially progressed during said period. The Zoning Administrator may require a performance bond conditioned upon the removal of the tent, travel trailer or motor home from the premises within the time limited in an amount satisfactory to said board.

Article 19
Dismantled or Non-operating Motor Vehicles

No person, firm or corporation shall store, place or permit to be stored or placed, allowed to remain on any parcel of land for period of more than 90 days in any one year a dismantled, partially dismantled or inoperable motor vehicle, unless the same is kept in a wholly enclosed structure, or is located in an approved junkyard by special exception as herein provided, or unless a variance there for is first obtained from the Township Zoning Board of Appeals to be granted only in special hardship cases beyond the control of the applicant, where peculiar circumstances exist, where no adjoining property owner is adversely affected thereby, and where the spirit and purpose of these regulations is still observed.

The purpose of these regulations is to limit and restrict the outdoor storage or unreasonable accumulation of junk cars, unused cars, stock cars, and dilapidated non-operating motor vehicles upon any land in the Township except within areas where a junk dealer is permitted to operate or the area is zoned for such purposes.

These provisions shall not be construed as repealing any ordinance now in effect or hereafter made effective relating to rubbish, litter, garbage, refuse, trash or junk but shall be construed as supplementary to any such ordinances, as well as any statutes of the State of Michigan relating thereto.

Article 20
Advertising Signs and Billboards

Statement of purpose: In recognition of the need for signs advertising businesses, products, places, person, activities and institutions located throughout the Township while also recognizing the potential adverse effects of such signs the following

limitations are enacted:

Size: No sign or billboard advertising one person, place, activity, product or business shall exceed 35 square feet in area in any zoning district without first obtaining a special use permit.

Location: No sign shall be located less than 10 feet from the side line of the property nor less than one-half the required building set back distance from the abutting street right-of-way line; shall constitute a traffic hazard; shall be less than 11 feet above any sidewalk or pass way for pedestrians or vehicles beneath same; shall be a nuisance or annoyance to neighbors or create a lighting or electrical disturbance.

Height: No free standing sign shall exceed fifteen feet in height without a special use permit. Signs attached directly to a building may not exceed the height of the building by more than 5 feet.

Construction and Maintenance: Any sign allowed herein whether as a permitted or special use, shall be constructed in a safe, sturdy and durable manner with proper bracing, anchorage and foundation and shall be maintained in such a manner to insure its continued safety, sturdiness and to prevent the sign from becoming run down.

Signs within business, commercial or industrial areas, as defined in the “Highway Advertising Act of 1972” (1971 P.A. 106) bordering interstate highways, freeways, or primary highways as defined in said Act shall be regulated and controlled by the provisions of statute.

Special Exception Use Permit. In light of the absence of delineated Commercial and Industrial Districts within the Township and in recognition and encouragement of business expansion within the Township, a business or company may make application for a special exception use permit to allow a commercial-type sign for their business, company or industrial operation which exceeds the otherwise permitted size and height limitations, if such permit is granted, all other requirements pertaining to signs contained in this ordinance shall apply .

Non-Conforming Uses. Uses as defined in Apartment House or Multi-Family Dwelling as described in Montmorency Township Zoning Ordinance definitions shall be allowed to continue as they exist on the date that this section is adopted. However, such non-conforming signs cannot be altered, modified or rebuilt and once their use has ceased or become unnecessary, they must be immediately removed.

Examples of events causing loss of right for non-conforming signs to exist include; change in business use or discontinuance of business use.

Article 21
General Provisions
Gas and Oil Processing Facilities

Gas and Oil Processing Facilities Shall be Permitted in all Zoning Districts: The purpose of the provisions of this section is to preserve the desirable character and personality of Montmorency Township, as well as to recognize the desirability of developing the gas and oil resources lying beneath the Township, the rights of those owning and developing such resources, and the rights of other residents to be as free as possible of an unpleasant or less than desirable atmosphere which may occur should standards not be enacted and applied to the facilities used in the development of the resource. Therefore, the location of all gas and oil processing facilities shall be subject to the following provisions.

General Regulations

1. Shall comply with all state and local building, environmental and health codes and regulations.
2. Shall, in addition to providing of date required by Article 27 Project Plans, provide as part of any site plan copies of the application and permit to drill, survey record of well location, and plat, as provided to the Supervisor of Wells, Department of Natural Resources, as part of the permit process for the location and erection of oil and gas processing facilities.
3. The Planning and Zoning Commission may impose conditions in order to comply with the Zoning Ordinance Standards. The Zoning Administrator may, at his/her discretion, send any zoning request to the Planning and Zoning Commission for clarifications.
4. The facility may incorporate surface land owned or leased by the oil and/or gas company. If leased, proper documents must be submitted to the township together with length of lease.
5. Because the subject facilities are industrial in nature, the site plan shall show adequate visual and sound privacy from adjacent property and public roads. Forested greenbelt, berms, attractive fence screen, landscaping, mufflers, insulation or other contrivances may be used to insure compliance with visual and sound privacy of the adjacent properties.
6. In the event the facility is no longer required or is not used for two (2) years, the existing facility shall be removed and the area restored to its original state. Further, the area shall be checked by an agency concerned with environmental protection to insure it is clear of pollutants. All costs

which are required to conform to the above regulations shall be the responsibility of the zoning permit holder.

Regulations by District:

In all zoned districts the following regulations shall apply:

1. The sound level of any such facility shall not exceed sixty (60) decibels as measured 450 feet in any direction from the facility;
2. The facility shall be built no closer than 450 feet from an existing dwelling;
3. The isolation from public roads shall be 100 feet;
4. The facility shall comply with the standards in Article 27 under Project Plans;
5. As permitted use, appeal of zoning provisions may be made to the Zoning Board of Appeals.

Article 22
Land Division

This article is applicable to all transactions taken on or after July 25, 1997.

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

Purpose

The purpose of this ordinance is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formally known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the municipality by establishing reasonable standards for prior review and approval of land divisions within the Township.

Definitions

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

Applicant – A natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

Divide or Division – The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies requirement of Section 108 and 109 of the State Land Division Act. “Divide” and “Division” does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the State Land division Act, this ordinance, and other applicable ordinances.

“Exempt split” or “exempt division” – The partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

“Forty acres or the equivalent” – Either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

“Governing body” – The Montmorency Township Board.

Prior Approval Requirement for Land Divisions Land in the Township shall not be divided without the prior review and approval of the Township assessor, or other official designated by the governing body, in accordance with this ordinance and the State Land Division Act; provided that the following shall be exempted from this requirement:

1. A parcel proposed for subdivision through a recorded plat pursuant to the State Land Division Act.
2. A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act.
3. An exempt split as defined in this Ordinance.

Application for Land Division Approval

An applicant shall file all of the following with the Township assessor or other official designated by the governing body for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or building development:

1. A completed application form on such form as may be approved by the Township Board.
2. Proof of fee ownership of the land proposed to be divided.
3. A survey and a tentative parcel map drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities.
4. Proof that all standards of the State Land Division Act and this Ordinance have been met.
5. The history and specifications of the land proposed to be divided sufficient to establish that the proposed division complies with Section 108 of the State Land Division Act.
6. If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
7. Unless a division creates a parcel which is acknowledged and declared to be “not a development site”, all divisions shall result in “buildable” parcels with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, approved on-site sewage disposal and water well locations (where public water and sewer is not available), access to existing public utilities and public roads, and maximum allowed area coverage of buildings and structures on the site. Declared agricultural land and land for forestry use shall not be subject to the foregoing as “development sites” as provided in the State Land Division Act at Section 102.
8. The fee as may from time to time be established by resolution of the governing body of the Township for land division reviews pursuant to this ordinance to cover the costs of review of the application and administration of this Ordinance and the State Land Division Act.

1. The assessor or other designee shall approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 45 days after receipt of the application package conforming to this ordinance's requirements, and shall promptly notify the applicant of the decision and the reasons for any denial. If the application package does not conform to this Ordinance's requirements and the State Land Division Act, the assessor or other designee shall return the same to the applicant for completion and refiling in accordance with this Ordinance and the State Land Division Act.
2. Any person or entity aggrieved by the decision of the assessor or designee may, within 30 days of said decision to the governing body of the Township or such other body or person designated by the governing body which shall consider and resolve such appeal by a majority vote of said Board or by the designee at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.
3. The assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.

Standard for Approval of Land Divisions

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

1. All the parcels to be created by the proposed land division (s) fully comply with the applicable lot (parcel), yard and area requirements of pertinent Ordinances, including, but not limited to, minimum lot (parcel) coverage and minimum setbacks for existing buildings/structures or have received a variance from such requirements (s) from the appropriate Zoning Board of Appeals.
2. The proposed land division(s) complies with all requirements of the State Land Division Act and this Ordinance.
3. All parcels created and remaining have existing adequate accessibility, or an area available therefore, to a public road for public utilities and emergency and other vehicles not less than the requirements of all applicable ordinances.
4. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-development sites. The depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road

right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement. The width of a parcel shall be measured at the abutting road or right of way line, or as otherwise provided in any applicable ordinances.

Consequences of Noncompliance with Land Division Approval Requirement

Any parcel created in noncompliance with this ordinance shall not be eligible for any building permits, or zoning approvals, such as conditional land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this ordinance shall subject the violator to the penalties and enforcement actions set forth in the following paragraph of this ordinance, and as may otherwise be provided by law.

Penalties and Enforcement

In addition to other penalties provided by this ordinance any person who violates any of the provisions of this article may also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

Article 23 **Towers**

Antenna towers and masts for cellular phone and other personal or business communications services, public utility microwaves and TV transmission may be authorized with a special approval use permit by the Zoning Board in the Residential (R1), Agricultural (AG) and Industrial (I-1) districts only. Antenna towers and masts erected and operated as a residential accessory use, and not more than fifty (50) feet in height as measured between the tower's base at grade and its highest point are exempt from these regulations.

1. A site plan and other materials normally required for special approval use permits must be submitted with the application.
2. The applicant shall provide documentation to the Zoning Board that clearly establishes the legal ownership of the tower. The applicant, agents, or successors shall report to the Zoning and Planning Board any changes in the legal ownership of the tower within thirty (30) days of the effective date of the change.
3. The application for special approval for the tower shall include a

visual impact analysis, prepared by the applicant, which includes graphic depiction of the anticipated visual appearance of the tower from important vantage points in the surrounding area. Methods used in preparing the analysis shall be reviewed and approved by the Zoning Board during its first consideration of the application for special approval before the public hearing.

4. The antenna tower shall be exempt from building height limits established by zoning district regulations, provided that the tower height shall not exceed the minimum height necessary to serve its intended functions or one hundred and ninety-nine (199) feet, whichever is less.
5. Whether or not it is feasible to provide equivalent service by locating the antenna on an existing tower or other existing structure in the Township, or on an existing tower or other existing structure located, in neighboring communities.
6. The tower and any ancillary building or buildings housing equipment needed for operation of the tower shall not exceed the floor area and height minimally necessary for such equipment, and 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. Landscape screening may be required by the Zoning Board to accomplish screening of ancillary equipment buildings.
7. Tower guide line anchors shall have a security fence not less than 6' high and equipped with appropriate anti climbing devices; a key to the compound shall be provided to the fire chief of our district for emergency access.
8. The applicant shall provide documentation of any lighting to be installed on the tower. If tower lighting is required or proposed, the tower may not be approved unless the Zoning Board determines that it will not have a significant adverse impact on properties and residents of the surrounding area.
9. The applicant shall provide documentation of conformance with any Federal Communications Commission and Federal Aviation Administration regulations.
10. We encourage the owner/operator of the tower to permit use of the tower by other personal or business communications services providers, including local government agencies, on reasonable

terms, so long as such use does not interfere with the owner/operator's reasonable use of the tower. The addition of other user's equipment to the tower shall be permitted so long as the engineered design capacity of the tower or mast is not exceeded. A special land use permit for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible co-location is not available for the coverage area and capacity needs.

11. The applicant shall be responsible for the maintenance of any permitted tower in a safe condition for as long as the tower remains in operation. Any antenna or tower that is not operated for a continuous period of ninety (90) days shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Along with said removal, said owner shall restore the site of said antenna or tower to its original condition prior to location of the antenna or tower subject to reasonable wear and tear. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Planning Commission may require the applicant to file a bond equal to the reasonable cost of removing the tower, antenna, alternative tower structure or other supporting structure(s) as a condition of a special use permit given pursuant to this section.
12. If the height required for the tower to serve its intended function decreases from such height as installed due to technological advancement, additional tower installations at other locations, or other factors, the Township may order that the tower be lowered to such decreased minimum height.
13. The tower shall be located centrally on a continuous parcel of not less than one (1) times the height of the tower measured from the base of tower to all points on each property line. The tower and any supporting or appurtenant structures shall be no closer to any dwelling than the distance equal one and one half times (1 ½) the height of the tower measured from its base at grade to its highest point. A fence not less than six (6) feet in height with anti-climb features shall be constructed around the base of the tower.
14. Where a feasible alternative exists, towers, tower structures and supporting structures and supporting structures shall not utilize a

power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property. Temporary generators used to create power during periods of interruption of the primary power source are allowable.

Article 24 **Sexually Oriented Business Regulation**

Purpose: The purpose and intent of this section of the Zoning Ordinance pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the township, and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their negative effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of township residents. The provisions of this section of the Zoning Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities which are prohibited by Township ordinance, state or federal law. If any portion of this section of the Zoning Ordinance relating to the regulation of sexually oriented businesses referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the township intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The township further states that it would have passed and adopted what remains of any portion of this Ordinance relating to regulation of sexually oriented businesses following removal, reduction or revision of any portion so found to be invalid or unconstitutional.

Definitions: For the purpose of definition, the words and phrases, as used in this section of the Zoning Ordinance, shall have the following meanings assigned:

Adult Arcade means any place to which the public is permitted or invited wherein coin-operated, slug operated, electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

Adult Bookstore or Adult Video Store means a commercial establishment that, as one of

its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

1. Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or
2. Instruments devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

It is recognized that a commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of the material identified in paragraphs 1 and 2, above, and still be categorized as and Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises 35% or more of sales volume or occupies more than 35% or more of the floor area or visible inventory within the establishment.

Adult Cabaret means a nightclub, bar restaurant, or similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity; or
2. Live performances that are characterized by the exposure of Specified Sexual Activities or Specified Anatomical Areas; or
3. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or descriptions of Specified Sexual Activities or Specified Anatomical Areas; or
4. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult Motel means a hotel, motel or similar commercial establishment that:

1. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above; or
2. Offers a 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-let the room for a period of time that is less than twelve (12) hours.

Adult Motion Picture Theater means a commercial establishment which for any form of consideration, regularly and primarily show films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified sexual Activities or Specified Anatomical Areas.

Adult Theater means a theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by the exposure of Specified Sexual Activities or Specified Anatomical Areas.

Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency means 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.

Nude Model Studio means any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pays money or any form of consideration, but does not include an education institution funded, chartered, or recognized by the State of Michigan.

Nudity or State of Nudity means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment or an admission fee, any individual's genital 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 a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
2. Materials as defined in Section 2 of Act No. 343 of the Public Acts 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.

Public Place means any real property or an appurtenance to the real property which is owned by this state, any municipality of this state, a public agency, or by a college or university in this state and may include a structure, enclosure, facility, or complex, including a court mall park, or other area, feature, or element; a public place shall also mean a business or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

Sexual Encounter Center means a business or commercial enterprise 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 opposite sex; or
2. Activities between male and female and/or persons of the same sex when one or more of the persons is in a state of nudity.

Sexually Oriented Business means a business or commercial enterprise engaging in any of the following:

1. Adult arcade;
2. Adult bookstore or adult video store;
3. Adult cabaret;
4. Adult motel;
5. Adult motion picture theater;
6. Adult theater;
7. Escort agency;
8. Nude model studio;
9. Sexual encounter center.

Sexually Anatomical Areas are defined as:

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

Specified Sexual Activities means and includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks anus, or female breasts; or

2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in paragraphs 1 through 3 above.

Regulation

Special Exception Use Sexually Oriented Business A sexually oriented business shall be by special exception use or special approval.

Standards and Additional Requirements:

1. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within One Thousand (1,000) feet of any principal or accessory structure of another sexually oriented business.
2. No sexually oriented business shall be located in any principal or accessory structure already containing a sexually oriented business.
3. No sexually oriented business shall be established on a parcel which is within One Thousand (1,000) feet of any parcel zoned Residential, Resort Residential or Residential Mobile Home Park¹.
4. No sexually oriented business shall be established on a parcel within One Thousand (1,000) feet of any single or multiple family residence, public park, school, child care facility, church or place of worship. The distance between a proposed sexually oriented business and any single or multiple family residence, public park, school, child care facility, church or place of worship, or other sexually oriented business shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the single or multiple family residence, public park, school, child care facility, church or place of worship.
5. The proposed use shall conform to all standards of the zoning district in which it is located.
6. The proposed use must meet all applicable and duly promulgated standards of the Township and of other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies had been obtained or is reasonable assured.

¹ Amended 8-11-09; Effective 8-27-09

7. The outdoor storage of garbage and refuse shall be contained or screened from view and located so as not to be visible from neighboring properties or the adjacent roadways.
8. Entrances to the proposed sexually oriented business must be posted on both the exterior walls and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that: 1) “persons under the age of 18 are not permitted to enter the premises”; and 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.”
9. No Product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible by a person of normal visual activity from the nearest adjoining roadway or a neighboring property.
10. Hours of operation shall be limited to 10:00 a.m. to 10:00 p.m., Monday through Saturday.
11. All off-street parking areas shall comply with Article 14 of this ordinance and shall additionally be illuminated during all hours of operation of the sexually oriented business, and until one hour after the business closes.
12. Any booth, room or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Anatomical Areas or Specified Sexual Activities shall:
 - a. Be handicap accessible to the extent required by the Americans with Disabilities Act;
 - b. Be unobstructed by any door, lock or other entrance and exit control device;
 - c. Have at least one side totally open to a public and a lighted aisle so that there is an obstructed view at all times from the adjoining aisle of any occupant;
 - d. Be illuminated such that a person or normal visual activity looking into the booth, room or cubicle from its entrance adjoining the public lighted aisle can clearly determine the number of people within;

- e. Have no holes or openings in any side or rear walls not relating to utility, ventilation or temperature control services or otherwise required by any governmental building code or authority.

Appeal to Zoning Board of Appeals – Sexually Oriented Business

If the Planning Commission denies a site plan, application for Special Use Permit, or both, for a sexually oriented business, the applicant shall be entitled to prompt review by the Township Zoning Board of Appeals upon written request by the zoning administrator. The Zoning Board of Appeals shall convene a meeting within fourteen (14) business days of the zoning administrator's receipt of the applicants request for review of the Planning Commission decision. The Zoning Board of Appeals shall review the record of the proceedings conducted before the Planning Commission and determine whether:

1. The Planning Commission's decision was based upon competent, material and substantial evidence, and
2. The Planning Commission's decision complies with the procedural requirements of the Zoning Ordinance and with Michigan and Federal law.

The Zoning Board of Appeals shall all the powers of the Planning Commission in reviewing this decision.

Within fifteen (15) days of the initial hearing on the applicant's request for review of the Planning Commission decision, the Zoning Board of Appeals shall issue a written decision either wholly or partially affirming, reversing, or modifying the Planning Commission's denial and stating the grounds thereof. Failure to issue a decision within said period shall result in the approval of the matted appealed. If the Zoning Board of Appeals affirms the Planning Commission's denial of a special use permit application to operate a sexually oriented business, then, upon written request from the applicant to the zoning administrator, the township shall within five (5) business days of its receipt of such written notice do the following:

1. File a petition in the County Circuit Court seeking a judicial determination with respect to the validity of such denial and, in connection therewith, file a motion for a preliminary injunction restraining the applicant from operating the sexually oriented business in violation of the Township Zoning Ordinance;
2. Request that the motion for issuance of a preliminary injunction be set for a show-cause hearing within five (5) days or as soon thereafter as is possible after the filing of such petition. In the event the applicant appears at or before the time of such show-cause hearing, waives the notice otherwise

provided by Michigan Court Rules, and requests that at the time set for such hearing the Court proceed to hear the case under applicable rules of civil procedure for the issuance of such permanent injunction on its merits, the township shall be required to waive its motion for preliminary injunction and shall join in such request.

In the event that applicant does not waive notice and/or does not request an early hearing on the township's motion for permanent injunction, it shall never the less be the duty of the township to seek the earliest possible hearing date under Michigan law and the Michigan Court Rules.

The filing of the written notice of intent to contest the Zoning Board of Appeals' denial of a special use permit shall not in any way affect the validity of such denial.

Article 25 **Miscellaneous Protection Requirements**

Every structure hereafter erected for dwelling purposes shall be provided with running potable water, adequate inside water closet accommodations and sewage facilities.

Any building erected as a garage or in which the main portion is a garage shall in no case be occupied for dwelling purposes unless it is auxiliary to a residence already being occupied upon the premises and unless it also complies with all the provisions of this ordinance relating to buildings for residential purposes.

Not more than one dwelling shall be constructed on any lot consisting of one-fourth acre or less.

The keeping of more than four adult dogs and/or cats, the keeping of pigeons having free access outside their cages, or the keeping of poultry, pigs, hogs, horses, or livestock is prohibited within or upon any platted properties used primarily for residential purposes or within or upon any area located within 132 feet of such aforesaid platted properties unless such latter area is located in a "C-1" Commercial District classification or lower or said use is on an "R-1" Residential District parcel of 2.5 or more acres and is in compliance with all requirements therein and/or herein. All such poultry, pigs, hogs, horses, livestock or more than four dogs and/or cats shall also be prohibited in any platted area of the Township if the same become obnoxious by reason of odor or noise. The determination of the Zoning Board of Appeals, established under statute and this ordinance, shall, in the absence of fraud, be conclusive on the questions of whether such are so obnoxious.

Accessory buildings with a total interior floor space area of 100 square feet or less do not require a zoning permit, notwithstanding such buildings must comply with all other requirements of this ordinance regarding accessory buildings.

Conveyance. The applicant for a zoning permit shall agree that neither he nor his successor in title, shall sell, convey lease, or otherwise dispose of any land surrounding a structure if such conveyance will result in the structure being left on a lot which fails to meet the minimum requirements set forth in this ordinance.

Ponds. Man-made ponds shall be setback at least 50 feet from all property lines and public right-of-ways.

Article 26¹
Board of Appeals

1. Zoning Board of Appeals Creation and Membership

- a. The Zoning Board of Appeals (ZBA) shall perform its duties and exercise its powers as provided in Article 6 of Act 110, P.A. 2006, as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and justice done. The Board shall consist of five (5) members, appointed by the Township Board by a vote of a majority of its membership.
- b. The first member shall be a member of the Township Planning Commission for the terms of his/her office.
- c. The remaining members must be selected from the electors of Montmorency Township and shall be representative of the population distribution and of the various interests present in the Township. One (1) member may be a member of the Township Board.
- d. An elected officer of the Township shall not serve as chairman. An employee or contractor of the Township Board may not serve as a member of the Board of Appeals.
- e. The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called to sit as a regular member of the Zoning Board of Appeals in the absence of a regular member if a regular member is absent from or unable to attend one (1) or more meetings of the Zoning Board of Appeals. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.
- f. The terms of office for members of the Zoning Board of Appeals shall be for three (3) years, except for members serving because of their membership on the Planning Commission or the Township Board, whose terms shall be limited to the time they

¹ Article 26: Amended 8-11-09; Effective 8-27-09

are members of those bodies. When members are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

- g. A member of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

2. Meetings

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

3. Jurisdiction

- a. An appeal concerning the administration of the provisions of this Ordinance may be taken to the Board of Appeals within the timeframe defined in the general rules and procedures adopted by the Zoning Board of Appeals. If such a timeframe is not specified, appeals shall be filed within thirty (30) days of the decision of the Zoning Administrator from which the appellant seeks relief.

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

5. **Variances**

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

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

- bb. Strict compliance with the regulations governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;
 - cc. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners;
 - dd. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created).
 - ee. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.
6. **Zoning Board of Appeals Submittal**: The applicant is required to submit six (6) copies of surveys, plans and data as required under **Article 7**, or other information deemed reasonably necessary for making any informed decision on his or her appeal.
 7. **Conditions of Approval**: The ZBA may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in **§10.2**.
 8. **Exercising Powers**: In exercising the above powers, the Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken.
 9. **Time Limit**: No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period and substantial construction has occurred.
 10. **Appeals to Circuit Court**: Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the circuit court of Montmorency County. An appeal from a decision of a Zoning Board of Appeals shall be filed within thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson or within twenty-one (21) days after the Zoning Board of Appeals approves the minutes

of its decision. The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals. The court may make other orders as justice requires.

Article 27

Zoning Permits, Project Plans, Subdivision of Land and Procedures

Zoning Permit. Before proceeding with the erection, alteration, enlargement, conversion or moving of any building or structure subject to the provisions of this ordinance, the owner of the premises shall first apply for a zoning permit from the Township Zoning Administrator. This requirement shall not apply to alterations inside a building or structure if no change is made in foundations or outside perimeter and such alterations are in accordance with all other requirements of this ordinance not requiring issuance of a zoning permit or submission of notification to the Zoning Administrator.

Zoning Permit Application. Application for a zoning permit shall be made in triplicate upon forms provided by the Zoning administrator and shall be accompanied by the tax description of the premises, and by evidence of ownership of all property to be covered by the zoning permit.

Project Plans. Triplicate copies of blueprints or neat pen and ink drawings made to scale shall accompany the zoning permit application and such blueprints or pen and ink drawings shall show:

1. The shape, area, and dimensions of the premises.
2. The type, dimensions, height, and location of all buildings and structures to be erected, altered, enlarged, or moved on the premises, including all yard dimensions and accessory buildings, if any.
3. The location and type of sewage disposal and water supply facilities.

Nothing in this section relative to the submission of triplicate copies of scaled blueprints or pen and ink drawings of the proposed project for which the zoning permit is sought shall be construed as to prohibit a property owner or his agent from preparing his own plans and specifications provided the same are clear and legible. On examination of any site, the Zoning Administrator may require a current boundary survey and staking of the premises by a licensed surveyor if the same may not be clearly in evidence.

Zoning Permit Issuance. If the Zoning Administrator finds the zoning permit application and all required accompanying documentation specified in this ordinance to be in

conformance with this ordinance, he shall indicate his acceptance of said permit application and documentation by affixing his signature and date of his acceptance on the application. A signed zoning permit application shall constitute legal issuance of a zoning permit. Of the triplicate application materials, one copy shall be filed with the Zoning Administrator; one copy with the Township Board and one copy returned to the applicant with a card or other written statement specifying the terms of the zoning permit for posting on the premises in a conspicuous location during the progress of any construction, alteration or movement of buildings authorized.

The Zoning Administrator shall assess a fee with the submission of each and every zoning permit application. Such fees shall be established by the Township Board and may be adjusted periodically. No permit shall be valid until the required fee for issuance has been paid. No permit shall be transferable. Permits shall expire two years after issuance, but may be renewed for an additional one-year period at a fee of 50% of the original fee. All such fees shall be paid to the Township and collected by either the Zoning Administrator or Township Treasurer.

Revocation of Zoning Permit. The Zoning Administrator shall have the power to revoke or cancel any permit in case of failure or neglect to comply with the provisions of this ordinance or in case of false statements or misrepresentations made in the zoning permit application. The applicant or zoning permit holder shall be given reasonable notice in writing of liability to voiding action before revocation.

Inspection of Compliance. During the construction phase of a project for which a zoning permit has been issued, said project is subject to periodic or random inspection by the Township Zoning Administrator to ensure that the applicant/zoning permit holder is proceeding with the project in accordance with the plans submitted with the zoning permit application.

Direct Issuance of Zoning Certificate. Where a zoning permit is not required for the use of land or premises, the Zoning Administrator may issue the property owner a Zoning Certificate on application therefore certifying that the use of such land complies with all provisions of this ordinance.

Subdivision of Land – Site Plan Requirements. All land hereafter divided into two or more lots, for the purpose of sale or lease for residential, commercial, industrial, resort recreational, or other use shall be in conformity with the provisions of the Preamble of this ordinance. Such lots shall be subject to all provisions of the zoning district in which the tract is located governing area, width, frontage and other requirements concerning applicable land uses. No survey stakes or monuments shall be set with intent of permanent location until the proposed plan

has been submitted in triplicate to the office of the Township Zoning Administrator. In proposing such subdivision of land, the applicant shall submit triplicate identical plans on one or more sheets of paper measuring not more than 24 by 36 inches, drawn to a scale not smaller than 40 feet to the inch, certified by a registered land surveyor or professional engineer. The certification requirement by a registered land surveyor or professional engineer may be waived by the Zoning Administrator if such a requirement will place undue hardship on the proposer and provided the proposer submits a site plan meeting the requirements of this section to the satisfaction of the Zoning Administrator. Each site plan for subdivision of land shall show the following:

The boundary lines of the area included in the site plan including angles, dimensions, and references to a section corner, quarter corner, or point on a recorded plat, and arrow pointing north, and the lot area of the land included in the site plan.

Existing and proposed grades and drainage systems and structures with topographic contours at intervals not exceeding two feet.

The shape, size, location, height, and floor area of all structures, the floor area and ground coverage ratios, and the finished ground and basement floor grades.

Natural features such as woodlots, streams and lakes or ponds, and man-made features such as existing roads and structures, with indication as to which are to be retained and which are to be removed or altered. Adjacent properties and their uses shall be identified.

Proposed streets, driveways, parking spaces, landing spaces, and sidewalks with indication of direction of travel for one-way streets and drives and inside radii of all curves. The width of streets, driveways, and sidewalks and the total number of parking spaces shall be shown.

The size and location of all existing and proposed public and private utilities and required landscaping.

A vicinity sketch showing the location of the site in relation to the surrounding street system.

A legal description of the land included in the site plan and of the lot; the name, address, and telephone number of the owner, developer, and designer.

Any other information necessary to establish compliance with this and other ordinances of the availability of adequate utility capacity.

Upon receipt of any land subdivision site plan, the Zoning Administrator shall review it

to determine whether it is in proper form, contains all of the required information, shows compliance with this and all other ordinances of Montmorency Township; and demonstrates the adequacy of utility service. Upon demand by the proposer of the site plan, the Zoning Administrator shall, within 45 days, approve it in writing or deny approval in writing, setting forth in detail his reasons which shall be limited to any defect in form or required information, any violation of any provision of this or any other ordinance, or the inadequacy of any utility, and any changes which would make the plan acceptable. The proposer may appeal any denial of the plan to the appropriate governing body of the Township.

Zoning District Requirements for Principal and Accessory Buildings on Lots and Table.

To facilitate the administration of this ordinance and public understanding of zoning district requirements for principal and accessory buildings on lots, the provisions of the Table titled “Summary of Zoning District Regulations” shall apply to all buildings hereafter erected unless otherwise provided in this ordinance. Lot area, lot width, setback, side and rear yards and height limitations for buildings erected, altered, removed, or enlarged after the effective date of this ordinance shall conform to the requirements summarized in the Table unless otherwise provided in this ordinance.

Article 28
Enforcement

The provisions of this ordinance shall be administered and enforced by a Zoning Administrator and shall have all the administrative powers in connection with this ordinance which are not specifically assigned to some other officer or body. Accordingly, he shall have no power to vary or waive ordinance requirements. The Zoning Administrator shall be appointed by the Montmorency Township Board for such term and subject to such conditions as said board deems desirable to carry out the provisions of this ordinance. He shall hold office at the pleasure of the Township Board and receive such compensation as shall be determined by the Board. The Township Board may also appoint a Deputy Zoning Administrator under such conditions and for such term and for such compensation as said board may deem desirable to work under and assist the Zoning Administrator in the discharge of the duties of his office.

Article 29
Rezoning and Appeal Fees

Neither the Township Zoning Board nor the Zoning Board of Appeals shall consider any matter until there is first paid a fee as required below, except that such fee shall not be required where the Township or any official body thereof is the moving party. At the discretion and by resolution of the Township Board, such fees may be periodically adjusted by amendment to reflect any changes in costs which occur over time. The current amount of required fees is as follows:

- a. For consideration of a variance application, \$100.
- b. For consideration of an amendment of this ordinance, \$100.
- c. For consideration of a rezoning proposal, \$100.
- d. For consideration of a special exception use, \$100.

Article 30
Penalty

CORRECTION PERIOD: All violations shall be corrected within ten (10) days following date of issuance of notice to correct. However, the Township Zoning Administrator shall have the authority to extend the correction period to not more than thirty (30) days under circumstances wherein he/she deems an extension is warranted. If not corrected within the stipulated correction period, the violator may be issued a municipal civil infraction citation by a Montmorency Township enforcement officer.

PENALTIES: Any person, firm or corporation who violates, neglects, omits, or refuses to comply with the provisions of this Ordinance, or any permit or exception granted hereunder, or any lawful requirement of the Zoning Ordinance shall be responsible for a municipal civil infraction as defined by Michigan Law and subject to a civil fine determined in accordance with the following schedule:

- 1st violation within three year period \$ 50.00
- 2nd violation within three year period 100.00
- 3rd violation within three year period 300.00

Additionally, the violator shall pay costs, which may include all direct or indirect expenses to which the township has been put in connection with the violation. In no case, however, shall costs of less than \$50.00 or more than \$500.00 be ordered. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as authorized under Michigan Law. The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided for by law.

Article 31
Amendments and Supplements

Amendments and supplements to this ordinance may be adopted as provided by law.

Amendments. The Township Board may, from time to time, amend, modify, supplement, or revise the district boundaries or the provisions and regulations of this ordinance. Amendments may be initiated by the Montmorency Township Board, the Township Zoning Board, or by petition of one or more property owners of Montmorency Township. All proposed amendments shall be referred to the Township Zoning Board for a public hearing, and recommendation before action may be taken thereon by the Township Board.

Amendment Procedure. The procedure for amending this ordinance shall be in accordance with Public Act 100 of 2006, as amended.

1. A signed petition form, together with the application fee for a zoning amendment, shall be filed with the Zoning Administrator. The Zoning Administrator shall review the application as to proper form, and then shall transmit same to the Township Zoning Board.
2. The Zoning Board shall direct the Zoning Administrator to establish a date for a public hearing on the rezoning application and to give proper written legal notice of the hearing as required by Public Act 100 of 2006, as amended.
3. The Zoning Administrator shall also send written notice of proposed amendments to the Township Zoning Map to any adjacent landowner within 300' of the subject property pursuant to Article 35.
4. The applicant shall set forth a detailed description of the amendment on an application form provided by the Zoning Administrator. When the amendment involves a change in the Township Zoning Map, the applicant shall submit the following information:
 - a. A legal description and street/road address of the subject property, together with a property boundary map.
 - b. Name, address, and telephone number of applicant.

- c. Name of property owner(s) and applicants interested in the property if not the owner in fee simple title.
 - d. Filing date of application.
 - e. Effect of approval of the petition and adopted goals and development strategies or policies of Montmorency Township and other governmental units.
 - f. All findings of fact shall be made a part of the public records of the meetings of the Township Zoning Board and the Township Board. An amendment shall not be approved unless these and other identified facts are affirmatively resolved in terms of the general health, safety, and welfare of the citizens of Montmorency Township, or of other civil divisions where applicable.
5. **¹Rezoning Standards:** The Planning Commission shall review and apply the following standards and factors in the consideration of any rezoning request.
- a. Is the proposed rezoning consistent with the Montmorency Township Master Plan?
 - b. Are all of the allowable uses in the proposed district reasonably consistent with surrounding uses?
 - c. Will there be an adverse physical impact on surrounding properties?
 - d. Will there be an adverse effect on property values in the adjacent area?
 - e. Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?
 - f. Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing regulations?
 - g. Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?

¹ Amended 8-11-09; Effective 8-27-09

- h. Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?
- i. Is the site served by adequate public facilities or is the petitioner able to provide them?
- j. Are there sites nearby already properly zoned that can be used for the intended purposes?

Article 32
Severability/Validity

Severability¹: The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part or portion thereof.

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

Article 33
Effective Date

This ordinance shall take immediate effect. All ordinances or parts of ordinances in conflict herewith are hereby repealed¹.

In accordance with Section 401 of PA 110 of 2006, as amended, following adoption of a zoning ordinance or any subsequent amendments by the Township Board, the zoning ordinance or subsequent amendments shall be filed with the Montmorency Township Clerk, and a notice of ordinance adoption shall be published in a newspaper of general circulation in the Township within 15 days after adoption. Amendments or revisions shall take effect upon the expiration of seven (7) days after publication or at such later date as specified by the Township Board¹.

¹ Amended 8-11-09; Effective 8-27-09

Article 34
Table & Zoning Maps of Montmorency Township

Summary of Zoning District Setbacks

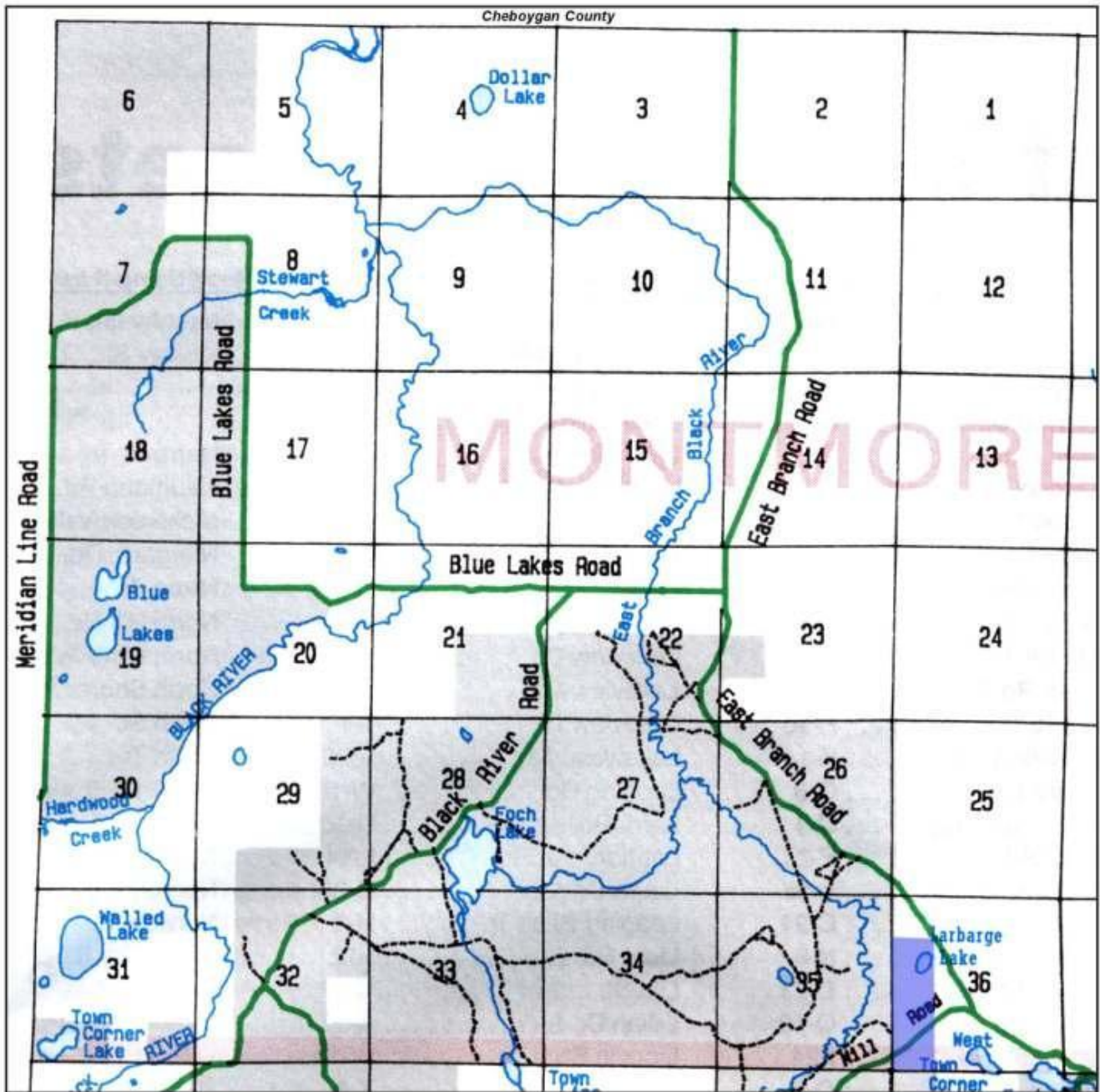
Zoning District	Minimum Lot Area	Minimum Lot Width	Minimum Front	Minimum Side	Minimum Rear
“AG” Farm	40 Acres	600 ft.	35 ft	20 ft	50 ft
Non-farm	2 Acres	150 ft	35 ft	20 ft	50 ft
“R-1”	2 Acres	150 ft	35 ft	20 ft	50 ft
“RR-1”	10,000 s.f.	100 ft	20 ft	7 ft	10 ft
Waterfront	10,000 s.f.	100 ft	45 ft	7 ft	20 ft
2 fam d.u.	20,000 s.f.	200 ft	45 ft	20 ft	20 ft
3 fam d.u.	30,000 s.f.	300 ft	45 ft	20 ft	20 ft
Non-water					
2 fam d.u.	20,000 s.f.	200 ft	35 ft	20 ft	20 ft
3-4 fam d.u.	30,000 s.f.	300 ft	35 ft	20 ft	20 ft
“RM-1”	10 Acres	600 ft	35 ft	20 ft	50 ft
“C-1”	15,000 s.f.	75 ft	75 ft	N.A.	N.A.
“I-1”	10 Acres	400 ft.	75	N.A.	N.A.


Minimum Square Footage for all dwelling units is 720 sq ft per unit and maximum building height in all districts is 35 ft

Note: Refer to specific articles for details

Zoning District Map of Montmorency Township

Montmorency County, Michigan
Western Portion - T32N R1E






 Shaded pattern representing State-owned forest and range lands and not to be construed as a zoning district. Individuals are advised that current Montmorency County land ownership records supersede the State land ownership information depicted on this map.



* **Notes:** Although not always depicted on this zoning districts map, the minimum "RR-1" Resort Residential District (waterfront) classification, or, in the case of the "R-1" Residential District front setback and greenbelt buffer strip requirements, shall apply to new residential development within 2,000 lineal feet from the ordinary high water mark of lakes, ponds, and reservoirs with a surface area of 5 acres or more and constantly flowing non-intermittent streams, rivers, and creeks. Development shall be controlled or precluded from causing adverse environmental impacts in sensitive areas, such as wetlands and steeply sloping areas.

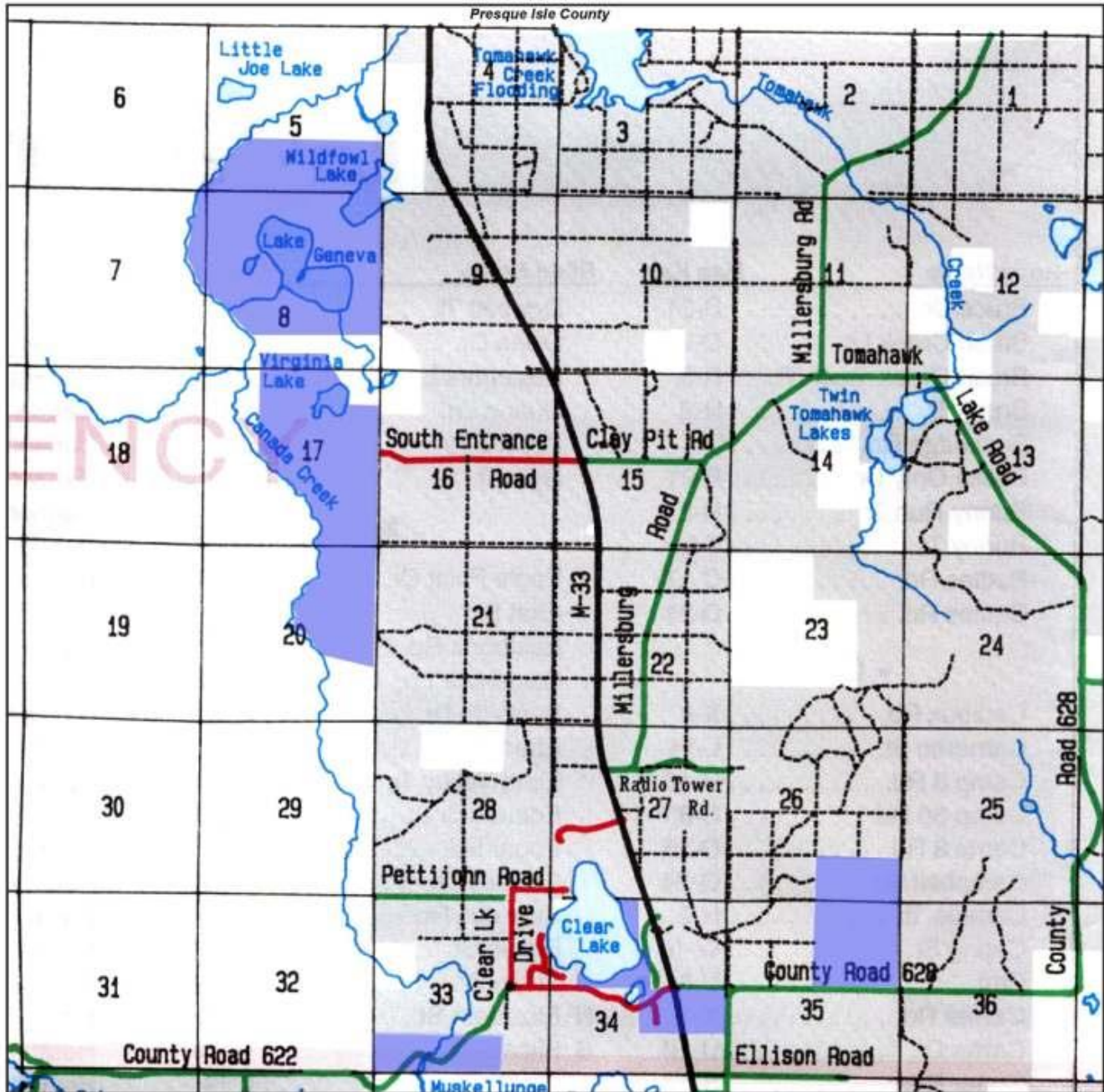
Zoning Districts

-  "AG" Agricultural District
-  "R-1" Residential District *
-  "RR-1" Resort Residential District *

Adopted: _____
Effective: _____

Zoning District Map of Montmorency Township

Montmorency County, Michigan
West Central Portion - T32N R2E



Shaded pattern representing State-owned forest and range lands and not to be construed as a zoning district. Individuals are advised that current Montmorency County land ownership records supersede the State land ownership information depicted on this map.



*** Notes:** Although not always depicted on this zoning districts map, the minimum "RR-1" Resort Residential District (waterfront) classification, or, in the case of the "R-1" Residential District front setback and greenbelt buffer strip requirements, shall apply to new residential development within 2,000 lineal feet from the ordinary high water mark of lakes, ponds, and reservoirs with a surface area of 5 acres or more and constantly flowing non-intermittent streams, rivers, and creeks. Development shall be controlled or precluded from causing adverse environmental impacts in sensitive areas, such as wetlands and steeply sloping areas.

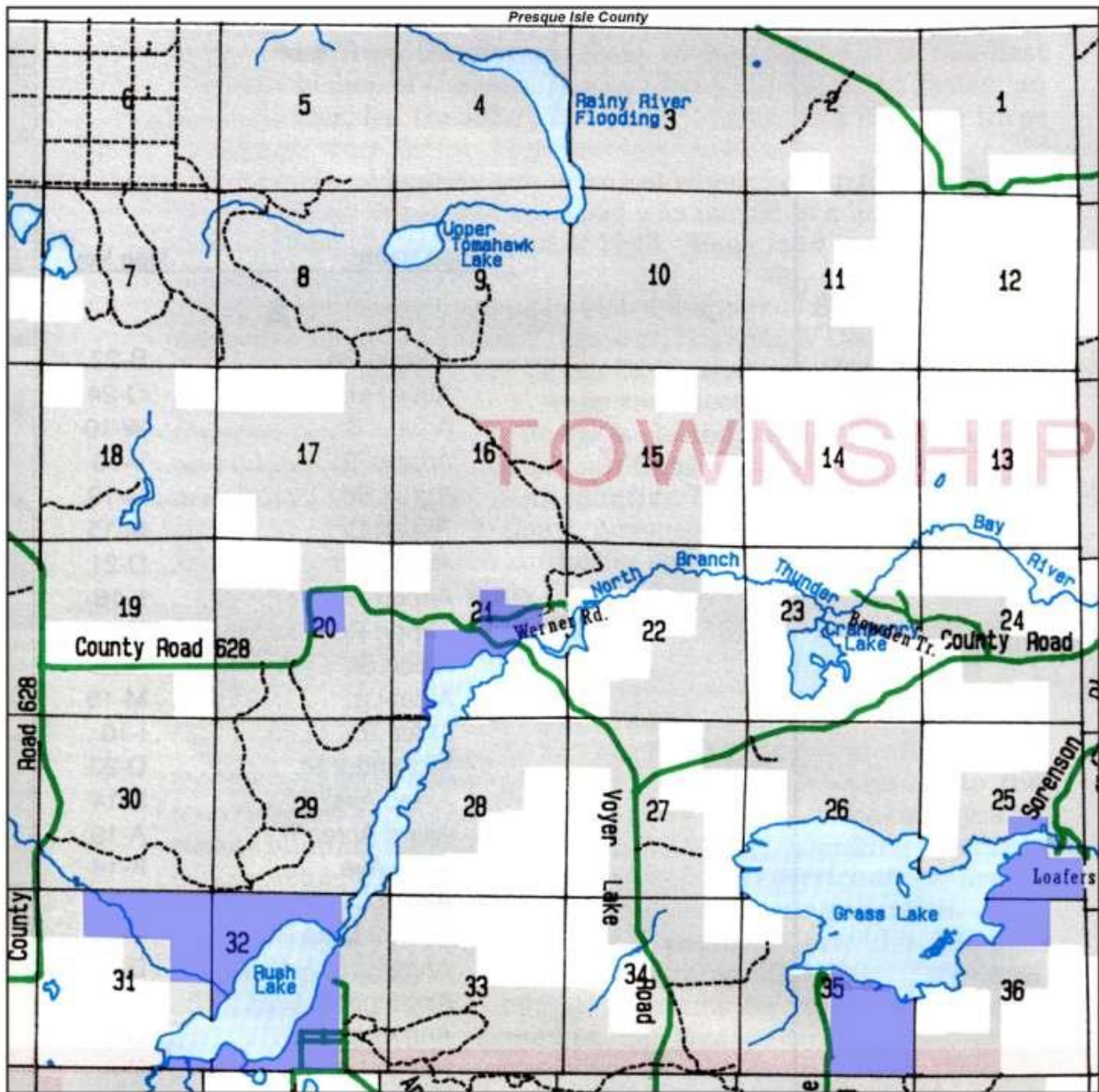
Zoning Districts

- "AG" Agricultural District
- "R-1" Residential District *
- "RR-1" Resort Residential District *

Adopted: _____
Effective: _____

Zoning District Map of Montmorency Township

Montmorency County, Michigan
East Central Portion - T32N R3E






Shaded pattern representing State-owned forest and range lands and not to be construed as a zoning district. Individuals are advised that current Montmorency County land ownership records supersede the State land ownership information depicted on this map.



* **Notes:** Although not always depicted on this zoning districts map, the minimum "RR-1" Resort Residential District (waterfront) classification, or, in the case of the "R-1" Residential District front setback and greenbelt buffer strip requirements, shall apply to new residential development within 2,000 lineal feet from the ordinary high water mark of lakes, ponds, and reservoirs with a surface area of 5 acres or more and constantly flowing non-intermittent streams, rivers, and creeks. Development shall be controlled or precluded from causing adverse environmental impacts in sensitive areas, such as wetlands and steeply sloping areas.

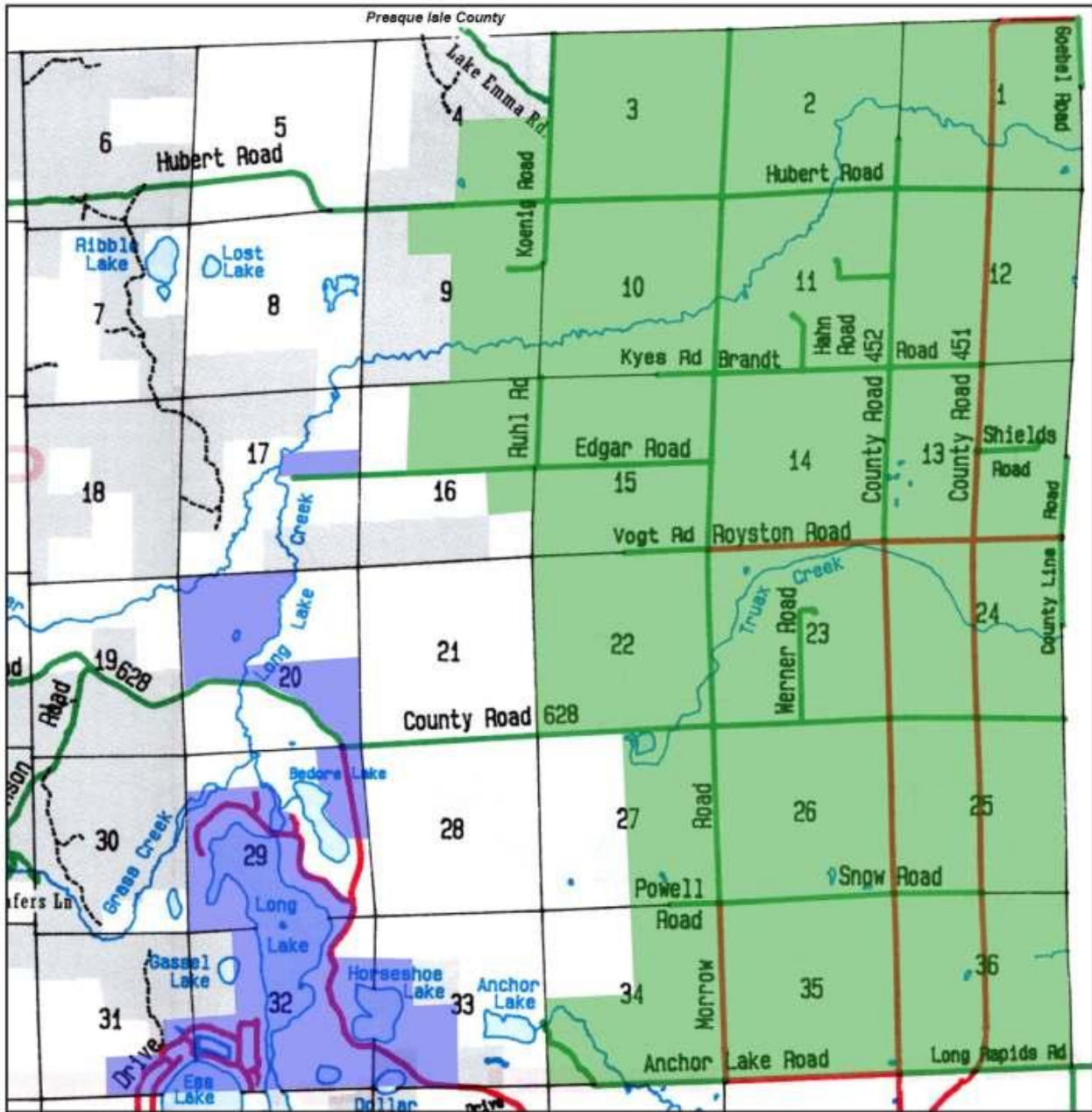
Zoning Districts

-  "AG" Agricultural District
-  "R-1" Residential District *
-  "RR-1" Resort Residential District *

Adopted: _____
Effective: _____

Zoning District Map of Montmorency Township

Montmorency County, Michigan
Eastern Portion - T32N R4E



Shaded pattern representing State-owned forest and range lands and not to be construed as a zoning district. Individuals are advised that current Montmorency County land ownership records supersede the State land ownership information depicted on this map.

(North Arrow)

0 1 2

*** Notes:** Although not always depicted on this zoning districts map, the minimum "RR-1" Resort Residential District (waterfront) classification, or, in the case of the "R-1" Residential District front setback and greenbelt buffer strip requirements, shall apply to new residential development within 2,000 lineal feet from the ordinary high water mark of lakes, ponds, and reservoirs with a surface area of 5 acres or more and constantly flowing non-intermittent streams, rivers, and creeks. Development shall be controlled or precluded from causing adverse environmental impacts in sensitive areas, such as wetlands and steeply sloping areas.

Zoning Districts

- "AG" Agricultural District
- "R-1" Residential District *
- "RR-1" Resort Residential District *

Adopted: _____
Effective: _____

Article 35¹
Public Notice Requirements:
Applies to Special Approval Use Permits, Special Exception Uses, Zoning Board of Appeals cases, text amendments, and rezoning requests.

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

1. **Published Notice:** When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Planning Commission Secretary shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Montmorency Township and mailed or delivered as provided in this Section.

2. **Content:** All mail, personal and newspaper notices for public hearings shall:
 - a. Describe the nature of the request: Identify whether the request is for a rezoning, text amendment, Special Approval Use, Special Exception Use, variance, appeal, ordinance interpretation or other purpose.

 - b. Location: Indicate the property that is subject to the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identification of the nearest cross street, or the inclusion of a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.

 - c. When and where the request will be considered: indicate the date, time and place of the public hearing(s).

 - d. Written comments: include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.

 - e. Disabled access: Information concerning how disabled access will be accommodated if the meeting facility is not disabled accessible.

3. Personal and Mailed Notice

¹ Amended 8-11-09; Effective 8-27-09

- b. **General:** When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:
 - aa. The owners of the property for which approval is being considered and the applicant, if different than the owner(s) of the property.
 - bb. Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property, notice shall be given to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or the occupant is located within Montmorency Township. If the name of the occupant is not known, the term “occupant” may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
 - cc. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to **subsection 5 (below)**.
 - dd. Other governmental units or infrastructure agencies within one (1) mile of the property involved.
 - c. **Notice Deemed Given:** Notice shall be deemed given when personally delivered or by its deposit in the United States mail, first class, property addressed, postage paid. The Planning Commission Secretary shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.
4. **Timing of Notice:** Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:
- a. For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation: not less than fifteen (15) days before the date the application will be considered for approval.

5. **Registration to Receive Notice by Mail:** Any neighborhood organization, public utility company, railroad or any other person may register with the Planning Commission Secretary to receive written notice of all applications for development approval pursuant to **subsection (3)(a)(cc) above** or written notice of all applications for development approval within the zoning district in which they are located. The Planning Commission Secretary shall be responsible for providing this notification, as established by the Township Board. The requesting party must provide the Planning Commission Secretary information on an official form to ensure notification can be made. All registered persons must register annually to continue to receive notification pursuant to this section.