

# **SODUS TOWNSHIP BERRIEN COUNTY, MICHIGAN**

COMPREHENSIVE ZONING ORDINANCE AMENDMENT

Ordinance Number 1  
Adopted July 22, 2008  
Effective Date August 5, 2008

**ZONING ORDINANCE OF THE TOWNSHIP OF SODUS**  
**Berrien County, Michigan**

**Ordinance Number 1**

Repeals and replaces Ordinances Number 1, with all amendments through June 2006.

Adopted July 22, 2008  
Effective August 5, 2008

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# ORDINANCE NUMBER 1

Adopted July 22, 2008 Effective August 5, 2008

## SODUS TOWNSHIP ZONING ORDINANCE

### ARTICLE I

#### SHORT TITLE, ENABLING AUTHORITY, PREAMBLE AND ENACTING CLAUSE

The Township of Sodus, Berrien County, Michigan ordains:

##### **Section 1.01 - Short Title**

This Ordinance shall be known and may be cited as the “Sodus Township Zoning Ordinance.”

##### **Section 1.02 - Preamble and Purpose of this Zoning Ordinance**

It is the express purpose and intent of this Zoning Ordinance, pursuant to the authority conferred by the Public Acts of the State of Michigan to promote and protect the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the Township by protecting and conserving the character, social and economic stability of the residential, commercial, industrial and other use areas by: 1) securing the most appropriate use of land in the Township; 2) preventing overcrowding the land and undue congestion of population; 3) providing adequate light, air and reasonable access; and 4) facilitating adequate and economical provision of transportation, water, sewer, school, recreation, and other public requirements, and by other means, all in accordance with a comprehensive plan.

##### **Section 1.03 - State Legislation Enabling Authority**

This Ordinance is adopted pursuant to Act 110, Public Acts of 2007, as amended, governing the unincorporated portions of the Township of Sodus, Berrien County, Michigan; to regulate and restrict the location and use of buildings, structures and land for trade, industry, residence and for public and semipublic or other specified uses; and to regulate and limit the height and bulk of buildings, and other structures; to regulate and to determine the size of yards, courts, and open spaces; to regulate and limit the density of population; and for said purposes to divide the Township into districts and establish the boundaries thereof; to provide for changes in the regulations, restrictions and boundaries of such districts; to define certain terms used herein; to provide for enforcement; to establish a Board of Appeals; and to impose penalties for the violation of this Ordinance.

##### **Section 1.04 - Scope and Applicability**

After the date of enactment of this Ordinance, no building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this Ordinance.

## **ARTICLE II PROVISION FOR AN OFFICIAL ZONING MAP**

### **Section 2.01 - Official Zoning Map**

The municipality is hereby divided into zones, or districts as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

The Official Zoning Map shall be identified by the signature of the Township Supervisor attested by the Township Clerk, and bearing the seal of the municipality under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 1 of the Zoning Ordinance, Ordinance Number 1 of the Township of Sodus, Michigan" together with the date of the adoption of this ordinance.

If in accordance with the provisions of this ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Township Board. No amendment to this ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry have been made on said map.

Any unauthorized change on the Official Zoning Map by any person or persons shall be considered a violation of this ordinance and punishable as provided under Article XXVI.

Regardless of the existence of copies of the Official Zoning Map which may be made or published, the Official Zoning Map which shall be located in the office of the Township Clerk shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Township.

### **Section 2.02 - Replacement of Official Zoning Map**

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Township Board, hereinafter also referred to as "Legislative Body", may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Township Supervisor attested by the Township Clerk, hereinafter referred to as "Clerk", and bearing the seal of the municipality under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of the map being replaced) as part of Zoning Ordinance No. 1 of the Township of Sodus, Michigan".

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

## **ARTICLE III**

### **RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

#### **Section 3.01 - Rules for Interpretation of District Boundaries**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, lakes, or other bodies of water shall be construed to follow such center lines;
6. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections 1 through 6 above, the Board of Appeals shall interpret the district boundaries;
8. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Township Board may permit, as a Special Land Use, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

**ARTICLE IV**  
**APPLICATION OF DISTRICT REGULATIONS**

**Section 4.01 - Application of Regulations**

- A. The regulations set by this ordinance shall be minimum regulations and shall apply uniformly to all structures and lands within each district.
- B. No structure or land shall hereafter be used or occupied, and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations specified for the district in which it is located.
- C. No structure shall hereafter be erected or altered:
  - 1. to exceed the height or bulk;
  - 2. to accommodate or house a greater number of families;
  - 3. to occupy a greater percentage of lot area;
  - 4. to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or to be erected or altered in any other manner contrary to the provisions of this ordinance.
- D. No part of a yard, or other open space, or off-street parking or loading space required in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- E. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein.
- F. Essential services shall be permitted as authorized and regulated by law and other ordinances of the municipality, it being the intention hereof to exempt such essential services from the application of this ordinance.

**Section 4.02 - Conflicting Regulations; Imposition of Most Stringent 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 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 law or Ordinance shall govern.

**ARTICLE V**  
**NONCONFORMING LOTS, USES, AND STRUCTURES BOUNDARIES**

**Section 5.01 - Intent**

- A. Within the districts established by this ordinance, or amendments that may later be adopted, there exist lots, land, structures, and uses thereof which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their continuation. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- B. Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. A nonconforming use of land, structure or combination thereof, shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises, of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.
- C. To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation, demolition, or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition, or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

**Section 5.02 - Nonconforming Lots**

- A. In any district in which single-family dwellings are permitted, a single-family dwelling and accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, in spite of limitations imposed by other provisions of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district. This also assumes that yard dimensions and requirements of the lot other than these applying to area or width, or both, shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Zoning Board of Appeals.
- B. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

**Section 5.03 - Nonconforming Uses of Land (Or Land with Minor Structures Only)**

- A. Where at the time of passage of this ordinance lawful use of land exists which would not be permitted by the regulations imposed by this ordinance, and where such use involves no individual structure with a replacement cost exceeding One Thousand Dollars (\$1,000.00), the use may be continued so long as it remains otherwise lawful, provided:



1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance.
3. If any such nonconforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
4. No additional structure, not conforming to the requirements of this ordinance, shall be erected in connection with such nonconforming use of land.

#### **Section 5.04 - Nonconforming Structures**

- A. Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
  2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.
  3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

#### **Section 5.05 - Nonconforming Uses of Structures or Structures and Premises in Combination**

- A. If lawful use involving individual structures with a replacement cost of one Thousand Dollars (\$1,000.00) or more, or of structures and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district which it is located.
  2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
  3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a Special Land Use be changed to another nonconforming use provided that the Township Board, by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Township Board may require appropriate conditions and safeguards in accord with the provisions of this ordinance.

4. Any structure, or structure and land in combination, in or on which a nonconforming use is replaced by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for Twelve (12) consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty (50) percent of the replacement cost at time of destruction.

#### **Section 5.06 - Repairs and Maintenance**

- A. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs.
- B. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official, provided that the cubic content existing when it became nonconforming shall not be increased.

#### **Section 5.07 - Uses Under Special Land Use Provisions, Not Nonconforming Uses**

Any use which is approved by the Township Board after the effective date of this ordinance, as a Special Land Use in a district under the terms of this ordinance shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use. The Township board may approve as a Special Land Use a use existing prior to the effective date of this ordinance, subject to the limitations and conditions of this ordinance as though such existing use were a newly initiated use, in which case the use would thereafter have the status of a conforming use as provided for above.

#### **Section 5.08 - Certificate of Occupancy for Nonconforming Structures and Uses**

- A. In order to establish a record of lawfully existing nonconforming structures, and/or nonconforming uses of structures or land, the Building Official and/or Zoning Administrator shall upon application by the owner, within one (1) year of the time of passage of this ordinance, issue a Certificate of Occupancy for such lawfully existing nonconformance.
- B. If such Certificate of Occupancy is not so obtained, the burden of proof of the lawful existence of a nonconforming structure or use shall rest upon the owner. Within six (6) months of the time of passage of this ordinance, the Building Official and/or Zoning Administrator shall conduct a survey of lawfully existing nonconforming structures and nonconforming uses of structures and/or land and shall notify the owners of record hereof of the above conditions of this subsection. It is not, however, the intent of this paragraph that nonconforming structures and nonconforming uses of structures and/or land not included in the above described survey and notification procedure would assume the status of conforming to the provisions of this ordinance by virtue of omission of such notification, it being recognized that for practical reasons certain nonconforming structures and nonconforming uses of structures and/or land could be missed in such survey and notification procedure described above.

## **ARTICLE VI**

### **R-AG RESIDENTIAL-AGRICULTURAL DISTRICT**

#### **Section 6.01 - Intent**

The regulations of this District are intended to provide for a rural residential agricultural-oriented environment for families typically with children. To this end, uses are basically limited to single family dwellings and generally accepted agricultural activities under the Michigan Right To Farm Act, P.A. 93 of 1981 which provides for circumstances under which a farm shall not be found to be a public or private nuisance. The low density nature of this District is meant to be compatible with surrounding agricultural activities.

#### **Section 6.02 - Permitted Principal Uses**

1. Single-family dwellings.
2. Generally recognized agricultural activities when conducted in accord with Generally Accepted Agricultural Management Practices as established by the Michigan Department of Agriculture.
3. Single-family detached dwellings when approved as part of a Planned Unit Development (either Cluster Developments or Transfer of Development Rights) when a minimum of fifty (50) percent of the total acreage of the land area is permanently preserved through a farmland conservation easement administered by the Berrien County Purchase of Development Rights Program and/or a land trust acceptable to the Township Board and Planning Commission. A PUD may be approved with private roads pursuant to the Township Private Road Ordinance, Ordinance Number 23 and Article XVIII, Section 18.12.

#### **Section 6.03 - Permitted Special Uses**

1. Private garage.
2. Garden house, tool house, playhouse, or greenhouse, none used for commercial purposes.
3. Swimming pool in accordance with Article XVIII, Section 18.07.
4. Automobile parking for the domestic use of the occupants of the dwelling.
5. Any use customarily incidental to the permitted principal use.
6. Communication towers in compliance with the Township Communication Tower Ordinance, Number 22.

#### **Section 6.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)**

1. House of worship, parish houses, and convents.
2. Schools.
3. Public recreation uses, such as parks, playgrounds, golf courses, ball fields, athletic fields, stadiums, and community centers.
4. Municipal, State, or Federal uses, public library, public museum, public utility building, telephone exchange, transformer station and substation, fire station, gas regulator station.

5. Hospital, provided that the lot shall have one thousand one hundred (1,100) square feet for each bed in such hospital and precautions of building location and other precautions necessary to preserve the character of the district are taken.
6. Cemeteries.
7. Home Occupations in accordance with Article XVIII, Section 18.08.
8. Experimental, new technologies and related agricultural management practices pursuant to Article XIV, Section 14.04, paragraph 9.

**Section 6.05 - Area and Bulk Requirements**

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

## **ARTICLE VII**

### **R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT**

#### **Section 7.01 - Intent**

The regulations are intended to encourage a suitable environment for families typically with children. For this purpose, uses are basically limited to single-family dwellings, together with certain other uses, such as schools, parks, and playgrounds, which provide a neighborhood environment. In keeping with the intent, development is regulated to a moderate density. Commercial and other uses, tending to be incompatible with the intent are prohibited.

#### **Section 7.02 - Permitted Principal Uses**

1. Single-family dwellings.
2. Single-family detached dwellings when approved as part of a Planned Unit Development (either Cluster Developments or Transfer of Development Rights) when a minimum of fifty (50) percent of the total acreage of the land area is permanently preserved through a farmland conservation easement administered by the Berrien County Purchase of Development Rights Program and/or a land trust acceptable to the Township Board and Planning Commission. A PUD may be approved with private roads pursuant to the Township Private Road Ordinance, Ordinance Number 23 and Article XVIII, Section 18.12

#### **Section 7.03 - Permitted Accessory Uses**

1. Private garage.
2. Garden house, tool house, playhouse, or greenhouse, none used for commercial purposes.
3. Swimming pool in accordance with Article XVIII, Section 18.07.
4. Automobile parking for domestic use of the dwelling unit.
5. Any use customarily incidental to the permitted principal use.
6. Article VII, R-1 Single Family Residential District, Section 7.03 – Permitted Accessory Uses. The addition of “The use of storage containers, semi-trailers, former house trailers, or previously used manufactured homes as accessory buildings or temporary storage units is permitted for periods not to exceed sixty (60) days, unless otherwise approved in writing by the Zoning Administrator for no greater than one 60-day extension” will be considered.

#### **Section 7.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)**

1. House of worship, parish houses, and convents.
2. Schools.
3. Public recreation uses, such as parks, playgrounds, golf courses, ball fields, athletic fields, stadiums, and community centers.
4. Municipal, State, or Federal uses, public library, public museum, public utility building, telephone exchange, transformer station and substation, fire station, gas regulator station.
5. Hospital, provided that the lot shall have one thousand one hundred (1,100) square feet for each bed in such hospital and precautions of building location and other precautions necessary to preserve the character of the district are taken.

6. Cemeteries.
7. Home Occupations in accordance with Article XVIII, Section 18.08.
8. State licensed residential facility providing supervision or care, or both, to 10 (ten) or less persons.

**Section 7.05 - Area and Bulk Requirements**

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

**ARTICLE VIII**  
**RMH - RESIDENTIAL MOBILE HOME PARK DISTRICT**

**Section 8.01 - Intent**

To make provisions for mobile homes on subdivided lots in mobile home subdivisions and in state-licensed mobile home parks in an appropriate safe, sanitary, and attractive manner. The regulations of this district are intended to require adequate space and facilities for healthful living conditions for occupants of such mobile home parks.

**Section 8.02 - Principal Permitted Uses**

1. Residential mobile homes located within a mobile home subdivision which has been expressly established for the sole purpose of selling lots on which mobile homes are to be used and occupied for living purposes.
2. Residential mobile homes located in state licensed mobile home parks.
3. Residential mobile home condominiums established in compliance with P.A. 59 of 1978, the Condominium Act and P.A. 96 of 1987, the Mobile Home Commission Act.

All mobile homes located within Sodus Township for permanent occupancy shall be situated on a foundation and anchored in compliance with R125.1605-Rule 605, R125.1606-Rule 606, R125.1607-Rule 607 and R125.1608-Rule 608 of the Michigan Administrative Code. Mobile home subdivisions and parks shall be limited to the use and occupancy of mobile homes and shall be used for no other purpose. Mobile home subdivisions shall be established only after the owner(s) of the land to be platted for such use has complied fully with all applicable requirements of the Michigan Subdivision Control Act of 1967, as amended and all applicable provisions of Sodus Township's codes and ordinances.

**Section 8.03 - Permitted Accessory Uses**

Permanent patios, porches, carports, and expandable living units may be attached to a mobile home provided such attachments are prefabricated by a mobile home manufacturer or other supplier for the express purpose for which they are intended, or are designed by the owner or architect to be compatible in design with the mobile home to which they are to be attached and so finished in appearance as to blend in with the mobile home to which they are to be attached so as to present a neat, orderly, and attractive appearance when completed. Any such attachments shall be first approved by the Building Official and/or Zoning Administrator who shall issue a permit therefore. Separate garages and accessory buildings such as tool and storage sheds may be constructed on the lot or mobile home site within a park on which the mobile home is located provided a building permit is first secured and all applicable ordinances are observed in the construction thereof. All mobile homes shall be equipped with skirting of a material, design, and finish which is compatible with the mobile home and the aesthetic appeal of the mobile home subdivision or mobile home park. All skirting shall be constructed or installed in compliance with R125.1604-Rule 604 of the Michigan Administrative Code.

**Section 8.04 - Standards of Design for Mobile Home Parks**

Mobile home parks shall be established in full compliance with all applicable requirements of the State Mobile Home Commission Act, Act 96, P.A. 1987, as amended.

**1. Unit Construction**

Mobile home parks shall be utilized for mobile home dwellings constructed in conformance with the standards of either the Housing and Urban Development Code of 1976 or the American National Standards Institute (A.N.S.I.) Code and customary accessory buildings subject to the requirements as established and regulated by Act 96 of the Public Acts of 1987, as amended, and in addition, satisfy the following minimum requirements.

**2. Utilities**

All mobile home sites shall be connected to public sanitary sewer and water if such systems are available and accessible as defined by the Michigan Public Health Code, Section 14.15 (12751) or

to a state-approved system. Electrical and telephone distribution lines shall be placed underground in conformance with R125.1932-Rule 932, R125.1933-Rule 933, and R125.1940-Rule 940.

3. **Internal Roads**

All roads in every mobile home park shall be hard surfaced in compliance with the standards of the American Association of State Highway and Transportation Officials, 1974 Edition. All roads shall be provided with adequate storm drainage (Michigan Department of Public Health Rule 41).

All such roads shall meet the following standards:

- 1) Two-way streets - minimum width of twenty-one (21) feet without parallel parking; thirty-one (31) feet with parallel parking permitted on one side; forty-one (41) feet with parallel parking permitted along both sides of the street.
- 2) One-way streets - minimum width of thirteen (13) feet without parallel parking; twenty-three (23) feet with parallel parking permitted on one side; thirty-three (33) feet with parallel parking permitted along both sides of the street.

4. **Land Area**

A mobile home park shall be constructed on a tract of land of no less than ten (10) acres.

5. **Mobile Home Site Size**

The mobile home park shall be developed with sites having a minimum of 5,500 square feet per mobile home unit. This 5,500 square feet for any one site may be reduced by 20 percent provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated and maintained as open space. This open space shall be in addition to that required under R125.1941-Rule 941, R125.1944-Rule 944, and R125.1946-Rule 946, of the Michigan Administrative Code.

6. **Setback**

No mobile home, permanent park building or other structure shall be located closer than fifty (50) feet to the mobile home park boundary if that boundary abuts a public road right-of-way that is not an internal park road.

Setback distances for mobile home sites shall be provided as required by R125.1941-Rule 941 of the Michigan Administrative Code.

7. **Off-Street Parking**

Parking shall be provided in conformance with R125.1925-Rule 925 of the Michigan Administrative Code. No unlicensed motor vehicle of any type shall be parked within this district at any time except that they may be stored within a covered building.

8. **Screening**

All mobile home parks shall provide landscaping which meets the following standards:

- 1) If the mobile home park abuts an existing residential development, the park shall be required to provide screening which extends along that portion of the park boundary which abuts the residential development.
- 2) If the mobile home park abuts a non-residential development, the park does not need to provide landscaped screening.
- 3) In all cases, a mobile home park shall provide landscaped screening along that portion of the park boundary which abuts a public road right-of-way.



4) The landscaping shall consist of evergreen trees or shrubs of a minimum of three (3) feet in height at the time of planting which are spaced so that they will provide a continuous screen at maturity.

5) At road intersections the landscaped buffer strip shall be positioned to avoid visibility hazards.

6) Where the landscaped screening will be located under or immediately adjacent to power, telephone, and similar above-ground facilities - species whose mature height will not interfere with the facility shall be used.

9. **Variances**

A variance to waive or alter the requirements of the landscape buffer strip may be granted if existing site characteristics or circumstances exist which would make it unreasonable for the park owner or developer to construct the landscape buffer strip in accordance with the above standards.

Existing site characteristics or circumstances would include but would not be limited to the following situations:

- 1) The proposed park is adjacent to an existing mobile home park.
- 2) The proposed park is adjacent to a use which currently has an environmental buffer strip.
- 3) The proposed park has natural vegetative growth which would adequately serve as a buffer.

10. **Commercial Sales**

In-park sales of mobile homes may be conducted from a model manufactured home used as a service building or sales facility. Mobile homes may also be located on lots and sold therefore as a convenience for the mobile home park, if the park owner/operator is a licensed mobile home dealer, but not with the intent or purpose of using the park for regular commercial sales of mobile homes. Tenants are permitted to sell their homes on-site in conformance with Section 28a of P.A. 96 of 1987. Commercial sales of convenience items or services to accommodate only those persons residing within the park shall be permitted provided such sales or services are located within a service building. No advertising signs relating to such sales or service shall be permitted.

11. **Signs**

In mobile home parks signs are permitted which meet the following standards:

- 1) No sign shall project into or be placed within the right-of-way of any street.
- 2) There shall be no flashing, or intermittent illumination on any sign, nor interference with clear driver vision along any highway, street, or road or at any intersection of two (2) or more streets. There shall be no moving signs or sign components other than minor elements of clocks or thermometers. All illuminated signs shall be placed as to prevent the rays of illumination therefore from being cast upon neighboring residences within a residential district.
- 3) The color, saturation, and hue of any illuminated sign shall be such as to preclude confusion with traffic signals.
- 4) All signs are subject to the height regulations of principal buildings for this district.
- 5) On-site signs are permitted for the following uses only:

- a) For home occupations one (1) sign is allowed not exceeding two (2) square feet in area and non-illuminated. Said sign may be mounted flat against the wall of the principal building or on a free-standing post which shall be located outside of any existing public road right-of-way.
- b) One bulletin or announcement board not exceeding thirty-two (32) square feet in area.
- c) "For Sale" or "For Rent" signs, not to exceed six (6) square feet in area, advertising only the premises on which erected.
- d) In subdivision developments, one (1) subdivision sign advertising the sale of dwellings having an area of not more than three hundred (300) square feet and having an overall height of not more than twelve (12) feet above the ground.
- e) One (1) trespassing, safety, or caution sign not over two (2) square feet in area shall be permitted for each two hundred (200) lineal feet of perimeter lot line.
- f) For signs on parking lots, one (1) sign shall be permitted at each point of ingress and egress to a parking lot in order to indicate the uses being served by the parking lot, the operator, parking rates, and directions of movement. Each such sign shall not exceed fifteen (15) square feet in area, shall not extend more than ten (10) feet in height above grade, and shall be located entirely on the parking lot.

12. **Height**

Maximum building height in this district is limited to one story except service buildings which may be two (2) stories.

**Section 8.05 - Area and Bulk Requirements**

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

**ARTICLE IX**  
**R-3 RESIDENTIAL MULTI FAMILY DISTRICT**

**Section 9.01 - Intent**

The purpose of the district is to contribute to the diversification and variety of the community's housing stock at locations suitable for a residential environment.

**Section 9.02 - Permitted Principal Uses**

1. Single-family dwellings
2. Two-Family dwelling.
3. Multi-Family dwelling.
4. Single-family detached or Two-Family attached dwellings when approved as part of a Planned Unit Development (either Cluster Developments or Transfer of Development Rights) when fifty (50) percent or more of the total acreage of the land area is permanently preserved through a farmland conservation easement administered by the Berrien County Purchase of Development Rights Program and/or a land trust acceptable to the Township Board and Planning Commission. A PUD may be approved with private roads pursuant to the Township Private Road Ordinance, Ordinance Number 23 and Article XVIII, Section 18.12.

**Section 9.03 - Permitted Accessory Uses**

1. All uses allowable in the R-1 Single Family Residential District.
2. Community or private garages serving the principal building.
3. Private swimming pool designed and operated only for occupants of principal buildings and their personal guests in accordance with Article XVIII, Section 18.07.
4. Maintenance and management building associated with multi-family dwellings.

**Section 9.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)**

1. House of worship, parish houses, and convents.
2. Schools.
3. Public recreation uses, such as parks, playgrounds, golf courses, ball fields, athletic fields, stadiums, and community centers.
4. Municipal, State, or Federal uses, public library, public museum, public utility building, telephone exchange, transformer station and substation, fire station, gas regulator station.
5. Hospital, provided that the lot shall have one thousand one hundred (1,100) square feet for each bed in such hospital and precautions of building location and other precautions necessary to preserve the character of the district are taken.
6. Cemeteries.
7. Home occupations in accordance with Article XVIII, Section 18.08.
8. Nursing and convalescent homes.

**Section 9.05 - Area and Bulk Requirements**

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

## **ARTICLE X C COMMERCIAL DISTRICT**

### **Section 10.01 - Intent**

The Commercial district is established to provide suitable locations for a wide range of shopping, business, and service among such necessary regulations, being the exclusion of certain uses and activities which typically disrupt the functioning of commercial areas, and which function better outside such areas.

### **Section 10.02 - Permitted Principal Uses**

The following uses are permitted, provided they are operated entirely within a building, except for off-street parking and loading facilities.

1. Mercantile establishments for the sale and service of goods at retail or wholesale.
2. Professional service establishments, such as offices of doctors, dentists, accountants, brokers, realtors, engineers, and architects.
3. Funeral homes, clinics, medical centers, convalescent homes.
4. Personal service establishments, such as barber and beauty shops, shoe repair shops, tailors, and laundry and dry cleaning shops.
5. Restaurants, delicatessens, bakeries, and other dispensaries of food at retail.
6. Banks, savings and loan associations, and similar financial institutions or offices.
7. Houses of worship, schools, post office, community centers, museums and similar public, semi-public, and institutional uses.
8. Hotels, motels, lodging houses, boarding houses, tourist homes.
9. Traditional Planned Unit Developments on a parcel land having a minimum of at least ten (10) acres of land area provided such projects meet the purposes of this Article. A PUD may be approved with private roads pursuant to the Township Private Road Ordinance, Ordinance Number 23 and Article XVIII, Section 18.12.

### **Section 10.03 - Permitted Accessory Uses**

1. Any use customarily incidental to the permitted principal use.
2. Off-Street parking for private passenger vehicles and loading facilities in accordance with Article XX.

### **Section 10.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)**

The following uses may be allowed by Township Board Special Use Permit granted by the procedures provided for in this Section and in Article XXIII of this ordinance.

1. Residential dwellings.
2. Outdoor sales permitted for a specified duration.
3. Outdoor recreation facilities, such as miniature golf and arenas subject, to such operating and special regulations as may be imposed in the public interest.
4. Public parking garage or parking lot for paid parking and driveways.

5. Used car lots, trailer sales, and rental lots.
6. Automobile service garages, filling stations, and automobile laundries.
7. Theaters, night clubs, bowling alleys, and similar places of entertainment or recreation.
8. Circus, fair, carnival, outdoor displays, bazaars, or similar use, where permits for such use may be granted for periods not to exceed eight (8) days consecutively and may be renewable for not more than eight (8) days, and provided such use and occupancy:
  - a. is temporary and seasonal only.
  - b. is not detrimental to adjacent surrounding property.
  - c. will not create undue traffic hazard and congestion.
9. Electric transformer stations and substations, water and sewerage pumping stations. In permitting such use(s), the Township Board may vary the area, height, bulk and placement regulations as reasonably necessary for the public convenience and service, and reasonably compatible with the intent and character of the district.
10. Communication towers in compliance with the Township Communication Tower Ordinance, Number 22.

**Section 10.05 - Area and Bulk Requirements**

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

**ARTICLE XI**  
**M-1 INDUSTRIAL DISTRICT**

**Section 11.01 - Intent**

To encourage and facilitate the development of industrial enterprises in a setting conducive to public health, economic stability and growth; protection from blight, deterioration, and non-industrial encroachment; and efficient traffic movement including employee and truck traffic. The area, weight, bulk, and placement regulations reflect the intent of these districts. Land conducive to the intent of this district is limited in availability and is therefore primarily intended for industrial use in the interest of the community's tax base and its economic growth and development.

**Section 11.02 - Permitted Principal Uses**

1. Same as principal permitted uses allows in the C Commercial District.
2. Storage of materials or equipment, excluding waste or junk, enclosed within a building or a substantial visually screened fence not less than six (6) feet in height. Storage of bulk oil, gasoline, or chemicals provided such facilities are constructed in conformity with regulations of the State Fire Marshall, and further provided that above ground storage shall be entirely enclosed within a building or substantial visually screened fence not less than six (6) feet in height, and shall be located at least five hundred (500) feet from any Residential district.
3. Where any Industrial District abuts a Residential District along a common lot or property line, no building, parking, storage, or industrial activity shall be located within fifty (50) feet thereto, in accordance with Article XVIII, Section 18.10.
4. Generally recognized industrial, warehousing, storage, manufacturing, or fabrication uses subject to the above limitations excluding those Uses Requiring Township Board Special Land Use Permit listed under the M-2, Industrial District, and similar uses, being prohibited in this district.
5. Public parking garage or parking lot. Upon application, the Township Board may vary the area, height, bulk and placement regulations for such uses as reasonably necessary for the public convenience and service, and reasonably compatible with the intent and character of the district.

**Section 11.03 - Permitted Accessory Uses**

1. Any use customarily incidental to the permitted principal use.
2. Enclosed storage for goods processed on the premises.
3. Living quarters of a watchman or caretaker employed on the premises.

**Section 11.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)**

1. Same as C Commercial District, except residential dwellings.
2. The following use may only be permitted upon conclusive demonstration through specific plans that the proposed use shall not be obnoxious, hazardous, or detrimental to the public health, safety, and welfare:
  - a. **Rock Crushing**  
Rock crushing is permitted upon issuance of a special land use permit when such operation meets the following requirements:
    - 1) If the operation is part of a road construction company's recycling for their own use or projects.

- 2) Rock crushing shall not be used for custom crushing and shall be confined only for the owner's own projects.
- 3) Crushing can be done on property twice per year for a duration of one month each time, and only considered between October 1st and April 15<sup>th</sup> and only during normal business hours.
3. Public utility electric power generating facilities.
4. Communication towers in compliance with the Township Communication Tower Ordinance, Number 22.

**Section 11.05 - Area and Bulk Requirements**

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.



## **ARTICLE XII**

### **M-2 INDUSTRIAL PARK DISTRICT**

#### **Section 12.01 - Intent**

The Intent of this district is the same as M-1 District. Subject to Special Land Use Permit by the Township Board, heavier types of industries may be permitted in these Districts which are located and intended to be located at substantial distances from residential and more built-up areas.

#### **Section 12.02 - Permitted Principal Uses**

1. Same as M-1 District principal permitted uses.

#### **Section 12.03 - Permitted Accessory Uses**

1. Same as M-1 District permitted accessory uses.

#### **Section 12.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)**

1. Same as C, Commercial District, except residential dwellings.
2. The following uses may only be permitted upon conclusive demonstration through specific plans that the proposed use shall not be obnoxious, hazardous, or detrimental to the public health, safety, and welfare; be located no closer than five hundred (500) feet to a residential district; and include but are not limited to: junk, scrap paper or rag baling or handling; poultry killing, dressing or live storage; slaughterhouse; ammonia bleaching powder or chlorine manufacture; asphalt manufacture or refining; boiler works, forge works, aluminum, brass, copper, iron or steel foundry employing five (5) or more workers; brick, tile or terra cotta manufacture; celluloid manufacture; disinfectant or insecticide manufacture; distillation of bones, coal, tar, or wood; dye manufacture; electroplating; fat rendering; fertilizer manufacture; glue, gelatin, or size manufacture; lime, cement or plaster of paris manufacture; molten bath plating, oil cloth or linoleum manufacture; plastic manufacture or article therefore; raw hides or skins or the storage, curing or tanning thereof, rock crushing; rolling mills; rubber manufacture; slaughtering of animals or fowl; smelting of iron; soap manufacture; stock-yards; sulfuric, nitric or hydrochloric acid manufacture; tallow, grease, or lard manufacture or refining; tar waterproofing manufacture; yeast manufacture; food processing employing more than ten (10) people; concrete ready-mix plants; similar uses.
3. Public regulated utility electric power generating facilities.
4. Communication towers in compliance with the Township Communication Tower Ordinance, Number 22.

#### **Section 12.05 - Area and Bulk Requirements**

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density, permitted and minimum yard setback requirements.

**ARTICLE XIII**  
**MA INDUSTRIAL AGRICULTURAL DISTRICT**

**Section 13.01 - Intent**

The purpose of this district is to provide convenient locations for processing, shipping, receiving and warehousing of agricultural products, and repair and sales of agricultural implements, in order to meet the needs of those engaged in agricultural pursuits and to enhance, in an orderly manner, the agricultural interests of the Township.

**Section 13.02 - Permitted Principal Uses**

1. Same as the AG District permitted principal uses, except residential dwellings.
2. Fruit and vegetable processing facilities; shipping and receiving stations for fruit and vegetables, raw and processed; freezer; cold storage and general warehousing of fruit and vegetables, raw and processed.

**Section 13.03 - Permitted Accessory Uses**

1. Roadside stands (no more than one) for sale of agricultural products.
2. Farm Labor Housing - Any building or structure for the use or occupancy by seasonal farm labor as regulated by P. A. 368 of 1978, the Public Health Code, as amended, Part 124, Agricultural Labor Camps. All buildings maintained for farm families shall be occupied by them and their families only while engaged in work on farms.
3. All accessory buildings housing livestock shall be at least fifty (50) feet from any property line of the parcel and comply with Michigan Department of Agriculture adopted Generally Accepted Agricultural Management Practices (GAAMPS).
4. All vats, tanks and other similar structures used in processing fruits and vegetables shall be 100 feet from any property line of the parcel.
5. All vats, tanks and other similar structures used in processing fruits and vegetables located within 1,000 feet of any residential dwelling shall be appropriately screened.

**Section 13.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)**

1. Stables of horses for hire, riding academies, private parks, gun clubs, golf courses, and golf driving ranges, cemeteries, raising of fur bearing animals, kennels, boat liveries and similar uses.
2. Office of a veterinarian, animal clinic, and similar uses.
3. Airplane fields and appurtenances, in compliance with requirements of the Michigan Department of Transportation, Aeronautics Division.
4. Schools.
5. Agricultural implement repair and sales.
6. Grain elevators.
7. Communication towers in compliance with the Township Communication Tower Ordinance, Number 22.
8. Home occupations in accordance with Article XVIII, Section 18.03.

9. Experimental, new technologies and related agricultural management practices pursuant to Article XIV, Section 14.04, paragraph 9.

**Section 13.05 - Area and Bulk Requirements**

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

## **ARTICLE XIV AG AGRICULTURAL DISTRICT**

### **Section 14.01 - Intent**

To conserve and enhance the low density and agricultural use of substantial portions of the municipality that does now and, for a substantial period of time, should have such character. By conserving such character, the municipality and other public agencies will realize economies in public expenditures by minimizing scattered demand for urban types and levels of services, utilities, and facilities in otherwise predominantly rural areas.

The intent of this district is to support the use of land in this district for agricultural production. Support of continued agricultural production includes permanent and temporary preservation of individual parcels of land through voluntary conservation easements, use of zoning techniques that allow for the permanent preservation of land for agricultural purposes and application of experimental and/or new technologies that improve agricultural management processes or production capacities.

It is recognized that many experimental and new technologies over time will become generally accepted management practices as specific technologies mature and are found to meet the test of compatibility with the intent of this district. However, it is the intent of this district to allow on a case by case basis through issuance of a special use permit, experimental and new technologies when, in the opinion of the Planning Commission, such experimental and new technologies are compatible with current farming operations and occupants of adjoining properties.

### **Section 14.02 - Permitted Principal Uses**

1. Generally recognized commercial farming, including livestock and poultry raising, dairying, and similar agricultural use of land and structures when conducted in accord with Generally Accepted Agricultural Management Practices as established by the Michigan Department of Agriculture, except a farm operated wholly or in part for the disposal of garbage, sewerage, rubbish, offal, and wastes from rendering plants. The parcel of land shall be ten (10) acres or more in land area for any use in this paragraph. No piles or accumulation of refuse or manure shall be closer than one hundred (100) feet from any property line of the parcel.
2. Single-family dwellings subject to the regulations of this district.
3. Single-family detached dwellings when approved as part of a Planned Unit Development (either Cluster Developments or Transfer of Development Rights) when a minimum of fifty (50) percent of the total acreage of the land area is permanently preserved through a farmland conservation easement administered by the Berrien County Purchase of Development Rights Program and/or a land trust acceptable to the Township Board and Planning Commission. A PUD may be approved with private roads pursuant to the Township Private Road Ordinance, Ordinance Number 23 and Article XVIII, Section 18.12.

### **Section 14.03 - Permitted Accessory Uses**

1. Same as R-1 Residential permitted accessory uses.
2. All accessory buildings housing livestock shall be at least fifty (50) feet from any property line of the parcel.
3. Roadside stands (no more than one) for sale of agricultural products.
4. Farm Labor Housing, specifically any building or structure for the use or occupancy by seasonal farm labor as regulated by P. A. 368 of 1978, the Public Health Code, as amended, Part 124, Agricultural Labor Camps. All buildings maintained for farm families shall be occupied by them and their families only while engaged in work on farms.

**Section 14.04 - Uses Requiring Township Board Special Land Use Permit** (See Article XXIII)

1. Stables of horses for hire, riding academies, private parks, gun clubs, golf courses, and golf driving ranges, cemeteries, raising of fur bearing animals, kennels, boat liveries and similar uses.
2. Office of a veterinarian, animal clinic, and similar uses.
3. Airplane fields and appurtenances in compliance with requirements of the Michigan Department of Transportation, Aeronautics Division.
4. Schools.
5. Home Occupations in accordance with Article XVIII, Section 18.08.
6. Agricultural implement repair and sales.
7. Mining Operations.
8. Communication towers in compliance with the Township Communication Tower Ordinance, Number 22.
9. Experimental and new technologies that improve agricultural management processes or production capacities, including but not limited to energy production using wind, biofuels and methane technologies, when the Planning Commission finds that such technology and/or management practice meets one or more of the following criteria:
  - a. Expands agricultural production capacity.
  - b. Reduces costs of operation.
  - c. Introduces new production capacity or diversification of products.
  - d. Lengthens the growing season.
  - e. Provides for or increases customer on-site sale of farm grown products.

The Planning Commission in its review and determination of the compatibility of any new technology or agricultural management practice shall consider the impact of the technology and/or management practice upon all adjoining properties and shall recommend applicable conditions to be included with the special use permit to mitigate adverse impacts upon adjoining properties as deemed necessary.

**Section 14.05 - Area and Bulk Requirements**

See Article XVII - Schedule of District Regulations specifying the maximum height and bulk of buildings, the minimum size of the lot permitted by land use, the maximum density permitted, and minimum yard setback requirements.

## **ARTICLE XV F FLOODPLAIN DISTRICT**

### **Section 15.01 - Intent**

All land lying within the floodplain district is subject to the regulations of this district for the purpose of protecting against flood damage or destruction to structures which might otherwise be constructed in flood hazard areas, and for the purpose of meeting the requirements of the State Floodway Encroachment Act, Act 167, P.A. 1968, as amended and rules promulgated thereto and the Federal Flood Insurance Act of 1968 and the Federal Flood Disaster Act of 1973. The floodplain district shall be defined by the most current 100-year flood hazard elevation as described within the Flood Insurance Administration flood insurance study for Sodus Township dated April 3, 1978, as may be updated from time to time. Any development within this district shall require a Special Land Use Permit and shall be subject to compliance with the Soils and Sedimentation Act, Act 347 of 1972, as amended, the rules and regulations promulgated thereto, and a permit issued by the Michigan Department of Environmental Quality.

### **Section 15.02 - Principal Permitted Uses**

Notwithstanding any other provisions of this ordinance, no building or structure shall be erected, converted or structurally altered, and no land and/or structure shall be used in a floodplain district except for one or more of the following uses, provided such activities shall not cause any encroachment of the floodway which will result in any rise in flood heights:

1. Gardening, horticulture, open recreational uses such as parks, playgrounds, playfields, athletic fields, golf courses, bridle trails and nature paths.
2. In the area above the 100-year floodplain, uses permitted by the zoning district otherwise established for the lot, subject to the regulations of such district; provided however, the elevation of the lowest floor designed or intended for human use or habitation, including basements, shall be at least one (1) foot above the elevation of designated 100-year floodplain.
3. In the area below the 100-year floodplain, land may be used to supply open space or lot area requirements of a lot partially located above; provided however, no building or structure shall be located below the 100-year floodplain. In Agricultural Districts, land below the 100-year floodplain may also be used for agricultural purposes otherwise permitted by the regulations of the Agricultural District, except for building structures.

### **Section 15.03 - Permitted Accessory Uses**

Off-street parking is permitted as a use accessory to a principal use above the 100-year floodplain on the same lot. However, no building, structure or equipment other than boundary monuments is permitted below the 100-year floodplain as an accessory use.

### **Section 15.04 - Uses Requiring Township Board Special Land Use Permit (See Article XXIII)**

A Special Land Use Permit shall be obtained for all uses, except those exempted pursuant to the provisions of this Article, before construction or development begins within any area of the floodplain district. In order to obtain a Special Land Use Permit, the following standards are required when development commences.

1. **Anchoring**
  - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
  - b. All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

- 1) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring one additional tie per side;
- 2) frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;
- 3) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and
- 4) any additions to the mobile home be similarly anchored.

2. **Construction Materials and Methods**

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. **Utilities**

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- c. On-site waste disposal systems shall be located, according to the requirements of Berrien County Health Department, a minimum of 4 feet above the 100-year flood level.

4. **Subdivision Proposals**

- a. All subdivision proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electric, and water systems located and constructed to minimize flood damage.
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- d. Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

5. **Residential Construction**

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, at least one (1) foot above the 100-year flood elevation, and all other applicable flood proofing regulations of the H.U.D., Federal Insurance Administration, and the State of Michigan Construction Code, and rules and regulations promulgated thereto, shall be adhered to.

**6. Nonresidential Construction**

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- a. Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c. Be certified by a registered professional engineer or architect that the standards of this sub-section are satisfied. Such certification shall be provided to the Township Building Official.

**7. Mobile Homes**

- a. All mobile homes shall be anchored in accordance with subsection 1, above.
- b. For new mobile homes parks and mobile home subdivisions; for expansions to existing mobile home parks and mobile home subdivisions; for existing mobile homes parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities or pads before the repair, reconstruction or improvement has commenced; and for mobile homes not located in a mobile home park or mobile home subdivision, require that:
  - 1) Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;
  - 2) Adequate surface drainage and access for a hauler are provided; and
  - 3) In the instance of elevation on pilings, that:
    - lots are large enough to permit steps
    - piling foundations are placed in stable soil to no more than ten feet apart, and
    - reinforcement is provided for pilings more than six feet above ground level.

**Section 15.05 - Delineation of Development Proposed and Floodway and Fringe Areas**

The floodway and floodway fringe are defined as those areas so indicated on the Flood Boundary and Floodway Map within the most current H.U.D. Flood Insurance Study for the Township of Sodus, dated April 3, 1978 as from time to time may be updated. For issuance of a permit pursuant to this Article, the applicant must provide to the Township the map showing the floodway and fringe area plus any area contemplated for development.

**1. Floodway Area Development Standards**

Eligible development shall be constructed in conformance with the standards of Section 15.04. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- a. Prohibit encroachments, including fill, new construction, substantial improvements, or other developments unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any harmful increase in flood levels during the occurrence of the base flood discharge.



- b. Prohibit the placement of any mobile homes, except in an existing mobile home park or mobile home subdivision.
- c. No accessory structures normally incidental to a single-family residential use shall be constructed within the floodway area.

2. **Floodway Fringe Development Standards**

- a. Single-family residential uses permitted in districts contiguous to the floodway fringe where the floodway fringe has been filled pursuant to Section 15.04.3.b.1) above, may be allowed as a special land use within the Floodplain District provided the following conditions are met:
  - 1) A site plan, meeting the requirements of Article XXI shall be submitted,
  - 2) All requirements for a single-family residence as stipulated for the district contiguous to the site in question shall be met except that in no case shall the residence be located within 50 feet of the floodway,
  - 3) If public sewer and water are unavailable, requirements of the Berrien County Health Department requiring septic tanks and related drain fields be located a minimum of 4 feet above the 100-year flood level shall be followed,
  - 4) All other requirements and standards within Article XXIII shall be evaluated,
  - 5) Construction and occupancy of a single-family residence within the floodway fringe may still be subject to some flood risk. It shall be recognized that obstructions within the floodway could increase expected flood levels and inundate areas which would otherwise be free from flooding.

**Section 15.06 - Recording of Special Land Use Permit Required**

Before issuance of a building permit, the applicant shall file a copy of the recording of the Special Land Use Permit with the Berrien County Register of Deeds of which the Special Land Use Permit issued pursuant to the section shall contain the legal description of the subject property to inform future property owners of the conditions of said permits and of the remaining flood hazard.

**ARTICLE XVI**  
**PUD - PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT**

**Section 16.01 – Purpose**

The intent of Planned Unit Developments (PUD) is to permit greater flexibility and consequently more creative design of various types of development than are possible under conventional zoning regulations. It is the intention of this Article to allow flexible land use composition and design without sacrificing the basic principles of sound zoning practice. The basic zoning districts and their permitted uses as established in this Ordinance will form the land use base for designing a combination of uses permitted in each district in the form of clustering principal uses and activities at a higher density than would otherwise be possible under the respective district regulations on a preferred portion of a parcel while maintaining the overall density of development of the parcels consistent with the district regulations. Another option would be to combine the planning of land uses and activities from several districts as one project on the same clustering principle. This PUD district is also intended to minimize development impacts upon important environmental natural features, to provide for a more economical arrangement of on-site infrastructure by permitting principal uses to be more consolidated on one portion of a PUD site while retaining the overall density requirements, except as specifically authorized by the Township to encourage permanent land preservation.

It is a further intent of the PUD district to comply with the requirements of P.A. 177 of 2000 that requires qualified Michigan Townships to offer an “open space preservation” pattern of residential land development as a zoning and land development option in all zoning districts where the minimum lot size is two or fewer dwelling units per acre, or if the land is served by a public sewer system, three or fewer dwelling units per acre.

It is also a further intent of the PUD district to implement the provisions of P.A. 228 of 2003 that specifically allow a Michigan Township to approve a PUD that provides open space that is non contiguous with the rest of the property contained in the planned unit development. For the terms of this provision it is the intent of Sodus Township to provide the Planning Commission and Township Board authority to approve non contiguous disconnected property as a unified planned unit development where a portion of the total land area of the planned unit development is legally dedicated as permanent open space or farmland pursuant and when such dedication conforms with the open space and farmland preservation goals of the Sodus Township Master Land Use Plan and when such dedication is made in a form acceptable to the Planning Commission and Township Board. The goal of this PUD district provision is to implement the transfer of development rights from the portion of the PUD that will be dedicated as permanent open space or farmland preservation to the portion of the PUD scheduled for residential or other forms of development.

Under the provisions of this section there are established three types of Planned Unit Development:

1. PUD - Traditional (allowing the inclusion of other than residential uses)
2. PUD - Cluster Residential Development
3. PUD - Transfer of Development Rights

**Section 16.02 - Permitted Principal and Accessory Uses**

In the “PUD” Planned Unit Development District, the following provisions, regulations and restrictions shall apply:

**A. Permitted Principal Uses**

1. In the AG Agricultural, the R- AG Rural Residential Agricultural District, and the R-1 and R-3 Residential districts, a PUD - Cluster Residential Development or a PUD - Transfer of Development Rights Planned Unit Development can be designated on a parcel of land having a minimum of five (5) acres of land area.
2. In the in the C Commercial district, a parcel land having a minimum of five (5) acres of land area can be designated as a PUD - Traditional, provided such projects meet the purposes of this Article.

**B. Permitted Accessory Uses**

1. Accessory buildings and uses customarily incidental to the above named permitted and special uses.

**C. Permitted Principal Special Uses**

All special uses allowed by the applicable current zoning district shall be allowable within the PUD and approved pursuant to the approval process set forth in this Article.

**Section 16.03 - General Provisions**

- A. Continuing Applicability of Information on Approved PUD Site Plans:** The location of all uses and buildings, all uses and mixtures thereof, all yards and transition strips, and all other information regarding uses of properties as shown on or as part of a site plan which is approved by the Township, shall have the full force and permanence of the Zoning Ordinance as though such site plan and supporting information were specifically set forth as requirements in the Zoning Ordinance. Such information shall be the continuing obligation of any subsequent interests in a “PUD” district or parts thereof and shall not be changed or altered except as approved through amendment or revision procedures as set forth in this Article. The approved site plan(s) and any conditions attached thereto shall control all subsequent planning or development. A parcel of land that has been approved as a “PUD” district shall not thereafter be developed or used except in accordance with the approved site plan and plats approved by the Township.
- B. Commencement of Construction:** No construction, grading, tree removal, soil stripping, or other site improvements or changes shall commence, and no permit shall be issued until the requirements of this Article have been met, and approved as to conformance by the Township.
- C. Applicability of Performance Bond or Security:** A suitable performance bond or other form of security may be required for all public and common site improvements and developments and, if phased, all phased developments on a per phase basis. Cost estimates to be used in setting bond amounts shall be based upon the findings regarding estimated cost as reported by the Township Engineer, Public Agency, or PUD Engineer.

**Section 16.04 - Pre-Application Conference - Disclosure of PUD Type - Submission of Application and Site Plan**

- A.** An applicant for a PUD District may request a pre-application conference with the Zoning Administrator prior to filing an application for developing a PUD District. The request shall be made to the Zoning Administrator who shall set a date for the conference. The Zoning Administrator shall invite other officials who might have an interest in the proposed development, or who might assist the Township in the review process.
- B.** The purpose of the conference shall be to inform the Township and other officials of the type of PUD and concept of the proposed development and to provide the applicant with information regarding land development policies, procedures, standards, and requirements of the Township and other agencies. The applicant is encouraged to present schematic plans, site data, and other information that will explain the proposed development.
- C.** Statements and presentations made in the conference shall not be legally binding commitments.
- D.** Upon completion of the pre-Application conference, the application and required site plan shall be filed by the applicant upon a date agreed by the applicant and Zoning Administrator at the pre-Application conference, one that provides adequate time for the Zoning Administrator to complete a compliance review, prepare a written report for the Planning Commission and sufficient time to schedule the Planning Commission meeting.

### **Section 16.05 - Site Plan Requirements**

A site plan shall be submitted for approval for each phase of development. Site plans shall be submitted and reviewed in accordance with the provisions of Article XXI - Site Plan Review Procedures.

The Planning Commission may require the applicant to provide housing and commercial market analyses; traffic studies; facility, utility and service studies; and other information necessary for the Commission to properly and adequately analyze a "PUD" District as the basis for decision making.

To that end, an impact assessment shall be prepared by the applicant and submitted when required by the Planning Commission concurrently with the site plan. This document shall be prepared in narrative form, with such accompanying charts, graphs, maps and/or tables as may prove necessary. Topics to be addressed shall include community impacts, i.e., additional traffic likely to be generated per 24-hour period, directional distribution of trips generated by the proposed development, additional police and fire service needs to be anticipated, and environmental impacts (i.e., soils to be found on the site, site topography, natural features of note that are located on the site, and how each would be impacted by the proposed development).

### **Section 16.06 - Application and Review Procedure**

- A. An application for a "PUD" district shall be made by all of the owner(s) of record of the subject parcel. The applicant shall provide evidence of full ownership of all land in a "PUD" or execution of a binding or conditional sales agreement,
- B. The application shall be filed with the office of the Zoning Administrator, who will check it for compliance with the terms and conditions of this Zoning Ordinance. Upon determination that the application is in full compliance shall thereafter transmit the application and the site plan to the Township Planning Commission for final consideration and approval or denial. It is recommended that the applicant discuss the submission date with the Zoning Administrator to ensure sufficient time for the Zoning Administrator to complete the review prior to the Planning Commission meeting of which the applicant desires the matter to be considered.
- C. The Township Planning Commission shall hold a public hearing on the application and site plan, in most circumstances the hearing will be held within thirty-one (31) days of the filing date or at the next regular Township Planning Commission meeting if the date is less than the thirty-one day period. The public hearing shall follow the same procedure as that required in Article XXVII, Sections 27.03 and 27.04.
- D. At the public hearing the applicant shall present evidence regarding adherence to all pertinent standards and requirements. To this end evidence and expert opinion shall be submitted by the applicant in the form of maps, charts, reports, models and other materials, and/or in the form of testimony by experts who can clearly state the full nature and extent of the proposal. Materials shall be submitted in a sufficient number of copies for review by each member of the Planning Commission and other Township officials. Materials submitted shall include the required site plan and any supplementary sources of information necessary to satisfy the requirements detailed in Section 16.03.
- E. The Planning Commission shall undertake a study of the application and site plan and shall submit a report of its recommendation to the Township Board within sixty (60) days of the filing date of the application. This report shall contain the Planning Commission's analysis of the application and site plan, findings regarding standards, suggested conditions of approval, if applicable, and its recommendations. Materials and information to be considered in this study and review process may include input from such agencies as the County Health Department, Road Commission and Drain Commissioner among other public agencies having a public interest in the PUD project development.
- F. The Township Board shall review the Planning Commission's reports thereon, and shall approve, approve with conditions, deny, or table for future consideration, the application and site plan. Upon approval of the application by the Township Board, the Township Clerk shall so designate the property on the "Official Township Zoning Ordinance Map" indicating the Type of PUD and date of approval. Changes in the application or site plan recommended by the Township Board shall be referred to the Township Planning

Commission for review and recommendation prior to the Township Board action thereon. The Township Board may attach conditions to its approval of a “PUD” proposal.

- G. If the application and site plan are approved by the Township Board, the approved application and plan shall be binding upon the applicant and owner(s) of record or their assigned agent(s) and upon their heirs, successors, and assigns, unless changes are mutually agreed to by the Township Board and applicant and owner(s) of record or the assigned agent(s) or their heirs, successors, and assigns.

**Section 16.07 - Supplementary Development Standards and Regulations**

The following requirements expand upon and are in addition to the requirements detailed in Article XXI - Site Plan Review Procedures:

**A. Clustering Principals**

The clustering of principal and accessory use structures shall be permitted provided that the overall density of dwelling units and lot coverage requirements are met, except as provided hereafter in sub paragraph B. A perimeter setback boundary located between the property line and any building or structure located in the PUD is required of all cluster developments. This setback distance shall comply with the front, side or rear setback requirements of the district in which the property is located.

**B. Incentive Density**

An applicant may request and the Planning Commission may recommend to the Township Board the approval of an increase in density within a PUD - Cluster Development or PUD - Open Space/Farmland Preservation, when in the determination of the Planning Commission, the increased density is an inducement necessary to assure the implementation of the development by the developer. The incentive density shall be the minimum amount determined necessary by the Planning Commission but no more than 50 percent of the total density that can legally be developed under the terms of this ordinance and any other development regulations imposed by others on that portion of the PUD to be designated for open space or farmland preservation.

**C. District Location and Minimum Size**

1. All development in this district shall be limited to tracts of land having an area of at least the minimum number of acres required for the respective types of “PUD” District.
2. All development in this district shall be restricted to sites having access to a hard-surfaced roadway and accepted and maintained by the County Road Commission or the Michigan Department of Transportation.

**D. External and Internal Circulation and Access**

1. Access points to a “PUD” development shall be located no less than three hundred thirty (330) feet apart when measured parallel to the adjoining roadway, to any other entryway, driveway or roadway.
2. Each lot or principal building shall have internal vehicular access from a public or private road.
3. As property is developed as a “PUD” Planned Unit Development District, a pathway system linking all principal residential, commercial and industrial units both with on-site amenities (e.g., recreation areas, shopping, places of employment) and (unless it is demonstrated to the Planning Commission that such a system would be inappropriate or unnecessary to the development) with adjoining parcels. The pathway system shall be designed so as to be appropriate to non-motorized transport modes (e.g., bicycling, walking). The pathway shall be no less than four (4) feet in width and it shall be constructed of hard-surface paved materials suited to walking and to non-motorized vehicular use.

4. Public and private roads shall be designed and constructed according to established standards for public roads as established by the County Road Commission except that such standards may be modified as provided Article XVI, Section 26.07.

**E. Open Space (farmland) Regulations**

1. Specific PUD types shall satisfy the following open space regulations:
  - a) **PUD - Traditional:** At least one (1) land or land/water area for active or passive recreation purposes or farmland, with the water areas constituting not more than fifty (50) percent of the total open space or farmland. The remaining land area shall be developed according to the approved site plan. This open space shall be for the use and enjoyment of the residents, occupants, and users of the PUD District, and shall be considered as an integral component of the overall Planned Unit Development. The developer shall provide financially for the perpetual and mandatory maintenance of the open space through the use of deed restrictions or a conservation easement which shall require the participation in said maintenance cost by each owner, lease holder, renter, resident, or occupant within the Planned Unit Development.
  - b) **PUD - Cluster Development and PUD - Transfer of Development Rights:** At least one land and/or water area of permanently dedicated open space or farm land legally dedicated in a manner acceptable to the Planning Commission and Township Board is required containing not less than fifty (50) percent of the land area that is legally permissible for development pursuant to this ordinance and any other applicable development regulations imposed by others.
2. Buildings, parking lots, drives and similar improvements may be permitted in open space areas if related and necessary to the functions of the open space.
3. Open space areas shall be conveniently located and accessible in relation to the principal uses in the PUD.
4. Open space areas shall have at least minimum design standards, so that they can be usable and maintained for the functions intended.
5. The Township Board may require upon recommendation of the Planning Commission, that unique natural amenities located on the PUD site, such as ravines, rock outcrops, wooded areas, tree or shrub specimens, unusual wildlife habitats, ponds, streams, wetlands and unique agricultural production areas, shall be preserved as part of the open space system.

**F. Landscaping and Parking**

1. The parking and loading requirements set forth in Article XX - Off-Street Parking, Loading herein, shall apply except that the number of spaces required may be reduced if approved by the Township Board, upon recommendation of the Planning Commission, and included as part of the site plan submitted. Such reduction shall be based upon specific and reasonable findings.
2. A landscaped screening strip, no less than fifty (50) feet in width, shall be required when a free-standing physical structure containing a commercial, office or industrial use is located adjacent to a residential use. The screening strip shall be located between the two uses and shall be landscaped with trees, shrubs and ground cover, and may include fences, walls and berms.

## **G. Utilities**

1. Each principal building shall be connected to public or common water and sanitary sewer systems or to on-site facilities approved by the County and/or State Health Officials and Township Board as a part of the Site Plan.

2. All PUD's shall be required to provide an adequate fire protection system as determined and approved by the Township Fire Department and Township Board after receiving the recommendation of the Fire Chief. In all cases where an on-site system is proposed, detailed drawings, plans and/or other background materials as well as written approval from the appropriate County or State agencies shall be presented as part of the Site Plan submitted.

Maintenance of any and all approved common on-site utility systems shall be ensured by use of deed restrictions which shall provide for financial participation in maintenance costs by each owner or occupant of the PUD served by the system.

3. Each site shall be provided with adequate surface and piped storm drainage. Open drainage courses and storm water retention ponds may be permitted.

4. Electrical, telephone, and cable television lines shall be placed underground. Surface mounted equipment for underground wires shall be shown on the Site Plan and shall be screened from view.

5. A system of sidewalks connecting all principal buildings and a system of road lights shall be required of developments in the "PUD" district. Financial support for their maintenance shall be ensured through deed restrictions providing for each owner or occupant participation in maintenance costs.

## **H. Site Design, Layout and Density Criteria**

1. All density requirements shall be completed on a total gross area basis, less water area, unless the water area with the exception that water areas of less than one-quarter (1/4) acre each may be included as part of the gross land area for computing density.

2. Residential areas may contain several different types of dwelling units if it can be demonstrated to the satisfaction of Township Officials that the proposed combination will not interfere with the reasonable arrangement of lots in an area to be platted.

3. All principal buildings and all accessory buildings or structures shall be located at least fifty (50) feet from any exterior public or private road right-of way line and property line of an area to be residentially developed or otherwise platted for other uses.

4. The outdoor storage of goods and materials shall be prohibited in the "PUD" District, except as expressly permitted by the terms of the current zoning district regulations.

## **I. Legal Mechanisms to Ensure Facility and Open Space Maintenance**

1. Legal instruments setting forth the manner of financing permanent maintenance of common areas, utilities and facilities shall be submitted to the Township Attorney for review before the Township Board approves a final site plan.

2. Where an association is to be used to maintain common areas, utilities and facilities, the developer shall file a declaration of covenants and restrictions that will govern the association a part of the Site Plan application documents. The provisions shall include, but shall not be limited to, the following:

- a. The association shall be established as required by Michigan law.
- b. Membership in the association shall be mandatory for each building unit buyer and for any successive buyer and shall be so specified in the covenants.
- c. Restrictions shall be permanent.
- d. The associations shall be made responsible for liability.
- e. Building or unit owners shall pay their pro rated share of the costs and this requirement shall be specified in the covenants. Assessments levied by the association shall become a lien on the individual properties.

**J. Project Phasing**

- 1. If the proposed development is to be constructed in phases, a narrative description of the phased process that describes all work to be done in each phase should be submitted to the Planning Commission when the Site Plan is submitted.
- 2. A phase shall not be dependent upon subsequent phases for safe and convenient vehicular and pedestrian access, adequate utility services, open spaces, and recreation facilities, but that which is needed to make each phase completely functional and have all of the necessary common elements planned, designed and built when needed.

**Section 16.08 - Standards For Review**

The Planning Commission shall determine and shall provide evidence in its report to the Township Board to the effect that the application, site plan and supplementary informational materials submitted by the applicant meet the following standards:

- A. The proposed development shall conform to the Township Master Plan for Land Use or conforms to a land use policy which, in the Planning Commission's opinion, is a logical and acceptable change or modification to the adopted Township Master Plan for Land Use.
- B. The proposed development shall conform to the intent and purpose of the Township Zoning Ordinance and its regulations and standards of a "PUD" District and other Township, County, State and Federal requirements.
- C. The proposed development shall be adequately served by public utilities, facilities, and services such as: highways, roads, sidewalks, road lights, police and fire protection, storm drainage facilities, water and sanitary sewer facilities, refuse disposal; or that the persons, organizations, or agencies responsible for the proposed development shall be able to properly provide or connect to such utilities, facilities, and services with a Township or other public agency approved service when not provided by a public agency.
- D. Common open space, other common properties and facilities, individual properties, and all other elements of a "PUD" which provide open space are so planned that they will achieve a unified plan for all of its elements in appropriate locations, which are suitably planned, designed, and related to each other, the site, and surrounding uses of land.
- E. The applicant shall have made provision to ensure that public and common utilities, facilities, and services shall be irrevocably committed through recorded deed restrictions for that purpose, including provisions for the financing of the construction, management, operation and maintenance of all public and common utilities, facilities, and services included in the approved Site Plan and supporting documentation.
- F. Traffic to, from, and within the PUD shall be safe and convenient to the occupants and users of the project and the surrounding area. In applying this standard the Planning Commission shall consider, among other



things, convenient routes for automotive and pedestrian traffic; relationship of the proposed project to main thoroughfares and road intersections; and the general character and intensity of the existing and potential land use development of the surrounding area.

- G. The mix of housing unit types and densities, and the mix of residential and non-residential uses shall be acceptable in terms of their interrelationships, convenience, privacy, compatibility, and similar common welfare measures.
- H. The Planning Commission shall determine, where applicable, that noise, odor, light, or other external effects which are connected with the proposed PUD, will not adversely affect adjacent and surrounding lands, uses, and/or activities.
- I. The proposed development shall create a minimum disturbance to natural features, land forms, and the environment generally.
- J. Roads shall be compatible with the topography, be properly spaced, and be located and aligned in accordance with the intended function of each road. The PUD shall have adequate access to public roads. The plans shall provide for logical extensions of public roads and shall provide suitable road connections to adjacent parcels, where applicable.
- K. Pedestrian circulation shall be provided within the PUD and shall interconnect all PUD use areas where applicable. The pedestrian system shall provide for a logical extension of pedestrian ways outside the PUD and to the edges of the "PUD" where applicable, for future connections between the PUD and the future development of adjacent properties.

#### **Section 16.09 - Amendments to Site Plans**

Preliminary and final site plans may be amended in accordance with the process detailed in Article XXI - Site Plan Review Procedures.

#### **Section 16.10 - PUD Site Plans, Subdivision Plats and Condominium Subdivisions**

The Township Board shall have the authority to deny or table an application for approval of a PUD Site Plan, Land Division (subdivision) Plat or Condominium Subdivision if, in its opinion and after a report thereon from the Planning Commission, such PUD Site Plan or Land Subdivision will result in premature development of the area involved, or will result in improper scheduling of various public improvements such as, but not limited to, roads, utilities, and schools, as determined from the Public Works Capital Improvements Program adopted by the Township.

#### **Section 16.11 - Extension of Time Limits**

Time limits set forth in Article XXI - Site Plan Review Procedures may be extended upon showing a good cause, and by written agreement between the applicant and the Planning Commission.

#### **Section 16.12 - Performance Guarantees**

Performance guarantees shall be provided in accordance with Article XVI, Section 16.03 and/or Article XXI, Section 21.16.

#### **Section 16.13 - Violations**

Violations shall be addressed in the manner provided in Article XXV- Administration & Enforcement, Section 25.06-25.10.

**ARTICLE XVII**  
**SCHEDULE OF ZONING DISTRICT REGULATIONS**  
**Section 17.01 - Yard Setback, Building Height and Lot Size Requirements**

Zoning District	Minimum Yard Set Back In Feet (1)			Maximum Building Height		Minimum Lot Size	
	Front Yard	Side Yard	Rear Yard	Feet	Stories	Area	Width in Feet (6)
R-AG - Agricultural Residential (4)	30	10	40	30	2½	2 Acres	200
R-1 - Single Family Residential	30	10	40	30	2½	12,000 Sq. Ft.	100
R-3 Multi Family Residential (Single Family Dwellings same as R-1)	25	10	40	30	2½	Per Dwelling Unit (2)	60
C Commercial (4) (7) (Single Family Dwellings as a special use, same as R-1)	25	10	20	40 (3)	2½	None	None
M-1 Industrial	25	10	30	40 (3)	2	None	None
M-2 Industrial	25	10	30	40 (3)	2	None	None
MA Industrial Agricultural	30	50	30	40 (3)	2½	10 Acres (5)	300 (5)
AG Agricultural	30	10	30	40 (3)	2½	10 Acres (5)	300 (5)

- Notes:
- (1) See Article XVII, Section 18.02, Accessory Buildings and Section 18.06 Waterfront Setbacks.
  - (2) 1BR or efficiency 2,000 sf per dwelling unit; 2BR 2,700 sf per dwelling unit; 3 BR 3,400 sf per dwelling unit; or a minimum lot size of 9,600 sq. ft., whichever is larger.
  - (3) The height of a sign on a building shall not exceed fifty (50) percent of horizontal distance to the nearest residential district boundary.
  - (4) See Article XVI, on Planned Unit Developments for group of dwellings.
  - (5) The Zoning Board of Appeals may waive the minimum lot size to a lot size requirement no less than two (2) acres where a) there are unique circumstances related to the land that limit the agricultural use of the property, b) a minimum of fifty (50) percent of the land on the subject property will be permanently preserved for agricultural use in a form acceptable to the Township Planning Commission and Township Board, and c) the permanently preserved land complies with the overall land preservation plans and policies of the Township.
  - (6) All lots, except in platted subdivisions (or site condominiums) and planned unit developments provided that they meet all requirements of this ordinance, shall have frontage on a street/road equal to the minimum width in feet as provided herein.
  - (7) See Article XVIII, Section 18.10, Buffer Areas.

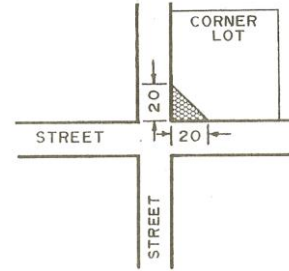
**ARTICLE XVII - SCHEDULE OF ZONING DISTRICT REGULATIONS****Section 17.02 - Minimum Size of Dwelling Units**

<b>Type of Buildings</b>	<b>Square Feet Floor Area First Story (See definition of floor area)</b>	<b>Square Feet Total Floor Area</b>	<b>Square Feet Additional Floor Area for Storage and/or Utility</b>
<b>Single Family Dwelling</b>			
1 story in height	1,000	1,000	None
1½ story in height	900	1,000	None
2 stories in height	800	1,600	None
<b>Two Family Dwellings</b> per dwelling unit	None	900	100
<b>Multi Family Dwellings</b>			
per efficiency dwelling unit	None	300	100
per 1 bedroom (1 BR) dwelling unit	None	600	100
per other dwelling unit	None	728	200

## ARTICLE XVIII SUPPLEMENTARY DISTRICT REGULATIONS

### Section 18.01 - Visibility at Intersections

On any corner lot in any district no fence, accessory structure, plant, shrub or similar object over three (3) feet in height shall hereafter be placed, erected, planted or allowed to grow in the area bounded by the street lines of such corner lot and a line joining points along the street lines for a distance of twenty (20) feet from the point of the intersection.



### Section 18.02 - Accessory Buildings

- A. In no case will it be permitted to erect a garage or other accessory building in any required front yard unless it is attached to and a part of the dwelling and in conformance with the setback requirements of Article XVII - Schedule of District Regulations. All garages and other accessory buildings attached to the dwelling shall be considered a part of the dwelling in determining yard requirements.
- B. A detached accessory building shall be located no closer than five (5) feet from any lot line.

### Section 18.03 - Exceptions to Height Regulations

The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

### Section 18.04 - Structures to Have Access

Every structure hereafter erected or moved shall have the required uninterrupted frontage on an approved public or private road, and all structures shall be so located on lots to provide safe and convenient access for servicing, fire protection, and required off-street parking.

### Section 18.05 - Temporary Dwelling Structures

No building, garage, cellar, basement or other structure which does not conform to the provisions of this ordinance relative to permanent dwellings shall be erected, altered or moved upon any premises and used for dwelling purposes except under the following applicable limitations:

- A. Temporary use of a building, garage, cellar, basement or other structure shall be for the sole purpose of providing dwelling facilities for the owner of the premises during the period which a permanent dwelling conforming to the provisions of this ordinance is in process of erection and completion, provided, however, such period shall not exceed 12 consecutive months beginning with the date of issuance of the permit.
- B. Use of any building, garage, basement or other structure for temporary occupancy shall not be adverse to the public health, safety, or welfare.
- C. The location of each such building, garage, cellar, basement or other structure shall conform to the regulations governing the yard requirements for dwellings, or similar conformable structures in the district in which it is situated.
- D. Recreational vehicles may be used to provide temporary housing of guests or visitors on a not for hire noncommercial basis by the owner of the premises where such vehicle is located. Such use for temporary housing shall not exceed (1) such vehicle at any one time and shall not continue for more than two consecutive weeks in any thirty-day period. Occupants of such recreational vehicles shall have unrestricted use of the sewage disposal and water supply facilities of the principal dwelling located on said premises. Prior to such use a permit therefore shall be obtained from the Township Clerk, which permit shall state the type of vehicle, license number, dates during which occupation is authorized and other pertinent information.
- E. Application for the erection, movement, alteration, and use of such building, garage, basement or other structure intended for temporary occupancy shall be made to the Building Official and/or Zoning

Administrator on an appropriate form signed by the applicant which shall indicate the applicant has read, understands and agrees to abide by all applicable provisions of this ordinance and that failure to abide by such applicable provisions constitutes a violation of this ordinance.

#### **Section 18.06 - Water Front Setbacks**

- A. The front yards of all water front lots shall be determined by the distance from the ordinary high water mark, if it has been established, or from the water's edge to the building or structure to be erected upon the lot. On all water front lots in improved areas, no building or structure, except a boat house, shall be constructed or erected with a water side setback less than the average setback of existing similar buildings or structures within 200 feet on each side of the property. Provided, however, in no event shall any building or structure be constructed or erected so as to obstruct the view of the occupants of existing dwellings measured at an angle of 45 degrees from the nearest water front corner of such existing dwellings facing the water front.
- B. In unimproved areas yard requirements for water front properties shall be the same as specified in Article XVII, but in no instance shall any building or structure, except a boat house, be constructed or erected within 20 feet of the water line. A boathouse may only be constructed within twenty (20) feet of the waterline if it can conform to the regulations imposed in Article XV, Floodplain District.

#### **Section 18.07 - Swimming Pools**

- A. It shall be unlawful for any person or persons to install, place or maintain a swimming pool having a depth of three (3) feet or greater upon any lot or parcel of land in Sodus Township without first securing a Certificate Of Approval from the Building Official and/or Zoning Administrator.

In granting such certificates, the Building Official and/or Zoning Administrator shall consider, among other things, the availability of water and adequate drainage. No certificates for such use shall be granted unless the plans provide for the construction of a suitable fence or enclosure around the pool of at least four (4) feet in height with a gate or gates that may be locked. The construction of the fence or enclosure shall be a prerequisite to the use of any such swimming pool. The purpose of this provision is to provide for the safety and protection of small children.

- B. The location of a swimming pool on any lot or parcel of land must comply with the minimum yard setback requirements of the respective district in which it is situated.
- C. After determination by the Building Official and/or Zoning Administrator that all applicable requirements of this ordinance and the township building code, including provisions regarding plans and permits, have been met, the Building Official and/or Zoning Administrator may issue the necessary permit for the construction, installation, enlargement or alteration of a swimming pool.

#### **Section 18.08 - Home Occupations**

- A. Home Occupations shall be allowed only in principal use single-family dwellings and only by Township Board Special Land Use Permit in conformance with Article XXIII, and the following regulations:
  - 1. No person other than members of the family residing on the premises shall be engaged in such occupation.
  - 2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
  - 3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding two (2) square feet in area and non-illuminated. Said sign may be mounted flat against the wall of the principal building or on a free-standing post which shall be located outside the existing road right-of-way.

4. No home occupation shall be conducted in any accessory building.
5. There shall be no sales of goods on the premises in connection with such home occupation.
6. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
7. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
8. Yard sales and garage sales are not considered to be home occupations and permitted without a special use permit provided they meet the following standards:
  - a. Sales last no longer than seven (7) days.
  - b. Sales are held no more than two (2) times in one calendar year.
  - c. Sales are conducted on the owner's property. Multiple family sales are permitted if they are held on the property of one of the participants.
  - d. No goods purchased for resale may be offered for sale.
  - e. No consignment goods may be offered for sale.
  - f. Directional signs may be placed on the street right-of-way.
  - g. All directional and advertising signs shall be free-standing and removed after completion of sale.
  - h. All directional and advertising signs placed on private property shall have the owner's permission.
  - i. No directional signs or advertising signs may be larger than two (2) feet by three (3) feet.

#### **Section 18.09 - Erection of More Than One Principal Structure on a Lot**

The construction of more than one (1) principal permitted use residential structure on a lot of record is prohibited except with a Planned Unit Development or pursuant to an approved Conditional Rezoning Agreement wherein the lot of record is temporarily rezoned to the R-3 Multiple-Family Residential Zoning District.

#### **Section 18.10 - Buffer Areas**

In a Commercial District or Industrial District, where it abuts a Residential District, a fifty (50) foot wide strip of natural vegetation shall be maintained as a greenbelt buffer area within which no parking or building shall be placed. This greenbelt is meant to separate land uses or activities which could be degraded by the other if not physically separated.

#### **Section 18.11 - Disabled Motor Vehicles, Junk, Blighted Structures, etc.**

All property in Sodus Township shall be maintained in compliance with the provisions of the Ordinance Number 3, the Township Disabled Motor Vehicles, Junk, Blighted Structures Ordinance

#### **Section 18.12 - Private Roads**

All private roads shall comply with the provision of Ordinance Number 23, the Township Private Road Ordinance.

#### **Section 18.13 - Land Divisions**

Any division of land in Sodus Township shall comply with the terms of this Ordinance and Ordinance Number 20, the Township Land Division Ordinance.

#### **Section 18.14 - Dwelling Structures for Temporary Medical Hardship Accommodations**

Notwithstanding any other provisions of this Ordinance, the Township Board may approve through the issuance of a Temporary Medical Hardship Special Land Use Permit pursuant to the provision of Article XXIII, the use of a mobile

home on the same lot as a permitted principal use single-family dwelling for occupancy of the principal use property owners upon a finding of a demonstrated medical hardship on the part of an occupant of the proposed mobile home or an occupant of the principal use single-family dwelling. An application for Temporary Medical Hardship Special Land Use Permit shall be filed with the Zoning Administrator who shall take such action to process the application pursuant to the provision of Article XXIII, Section 23.03 and shall, upon approval, remain valid for a period of one (1) year from the date of approval. The Township Board may, upon finding that the medical hardship conditions for which the permit has been issued remain, grant one or more additional one (1) year extensions. All such special land use permits shall provide that the recipient shall inform the Zoning Administrator, in writing, within thirty (30) days of the expiration of the medical hardship condition. Upon conclusion of the medical hardship need the mobile home must be removed within one hundred eighty (180) days of the expiration of the Temporary Medical Hardship Permit. Such mobile home shall meet all requirements of the RMH-Residential Mobile Home Park District as though located in a mobile home subdivision and on an individual lot.

The Temporary Medical Hardship must be a demonstrated medical hardship that renders one unable to do certain things they once could on their own, such as undertake off site travel unassisted, shopping, feeding, and clothing oneself or personal care assistance. The Township Board may require in this regard one or more medical certificates in support of the alleged medical hardship.

### **Section 18.15 - Household Pets and Animal Regulations**

The keeping of household pets and other animals in any zoning district shall comply with the following regulations:

- A. The keeping of customary household pets such as cats, dogs, household fish and household birds is expressly permitted in any zoning district.
- B. In AG, Agriculture and R-AG, Residential Agricultural Districts, the incidental use of livestock normally found in an agriculture setting, such as pigs, goats, sheep, fowl, and poultry, is permitted as long as the property is maintained in accordance with the Generally Accepted Agricultural Management Practices as established by the Michigan Department of Agriculture and referenced in the Michigan Right-To-Farm Act.

The accumulation of refuse or manure shall not be closer than one hundred (100) feet from any property line of the parcel if not otherwise regulated by the Michigan Department of Agriculture, Generally Accepted Agricultural Management Practices.

- C. Horses, llamas, mules, goats, cattle, pigs, and sheep may be housed on a zoning lot in the R-AG, Residential Agricultural and AG, Agricultural Districts by the property owner for personal recreation, leisure time activities or hobby purposes, in accordance with the following standards:
  - 1. The zoning lot shall be not less than two (2) acres in area,
  - 2. The maximum number of animals on any zoning lot shall conform to the following schedule:
    - a) One (1) animal on a two (2) acre zoning lot
    - b) Two (2) animals on a three (3) acre zoning lot
    - c) Three (3) animals on a four (4) acre zoning lot
    - d) Four (4) animals on a five (5) acre zoning lot
    - e) One (1) additional animal per acre on a parcel larger than five (5) acres
  - 3. Any piles of refuse or manure shall be located at least one hundred (100) feet from any property line of the parcel of land so used.
  - 4. All accessory buildings housing these animals shall be located at least one hundred (100) feet from any property line of said parcel, and shall be located at least one hundred fifty (150) feet from any existing dwelling unit located on a separate parcel which is owned by persons other than the parcel

where such animals are kept, if not otherwise regulated by the Michigan Department of Agriculture, Generally Accepted Agricultural Management Practices.

5. On lots of one-half (1/2) acre, but less than one (1) acre: raising and keeping fowl, poultry, and/or rabbits and or other small animals for pets is allowed, not to exceed three (3) per lot. On lots of one (1) acre or larger, raising and keeping fowl, poultry, and/or rabbits and/or other small animals commonly raised for human consumption in numbers no greater than is required to satisfy the personal needs of the human occupiers of the premises is allowed.



## **ARTICLE XIX SIGN REGULATIONS**

### **Section 19.01 - Purpose and Intent**

This Article shall be known as the Sodus Township Sign Regulations. For the purposes of this Article, a sign is any device designed to primarily inform or attract the attention of persons not on the premises on which the sign is located.

These regulations are intended to:

1. Preserve public health, safety, and welfare of Township residents and visitors.
2. Minimize the adverse effects of signs on nearby public and private property.
3. Protect and enhance the scenic views and natural landscapes.
4. Protect and enhance economic viability by assuring aesthetic appeal for tourists, resorters, visitors, and residents by the use of aesthetically pleasing sign materials and colors.
5. Avoid obstacles, distractions, or traffic hazards, which impair a traveler's ability to see pedestrians, traffic signs, or vehicles. See Section Article XVIII, Section 18.01 "Visibility at Intersections.
6. Reduce the blighting influence of Signs.
7. Avoid adverse lighting or reflection to limit encumbrance of the night sky.
8. Require structurally safe signs.

### **Section 19.02 - Signs Permitted in Any District without a Permit**

Subject to other applicable requirements and permits in this regulation, the following signs are permitted in any Zoning district without a permit:

#### **Permanent Signs**

1. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, name of occupants of the premises or other identification of the premises not having commercial connotations.
2. Flags and insignia of any government except when displayed in connection with commercial promotion.
3. Legal notices; identification, informational or directional signs erected or required by governmental bodies.
4. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
5. Signs directing and guiding traffic and parking on private property but bearing no advertising matter shall not exceed two square (2) feet in area.
6. Traffic control and information signs installed by the Berrien County Road Commission and the Michigan Department of Transportation shall be deemed essential services and exempt from sign regulations.

#### **Temporary Signs**

All temporary signs permitted pursuant to subsections 7 through 11 below, shall contain the name, address and telephone number of the individual responsible for the installation and removal of the sign. The Zoning Administrator is empowered to order the removal of any sign in violation of the terms of this ordinance through telephonic communication followed by a written notice sent via US Postal Service, effective date of notice which shall be the date of deposit with the US Postal Service. Any sign not removed within five (5) days of the telephonic communication shall be deemed a nuisance and subject to removal by the Zoning Administrator. The responsible party shall be liable for all costs for removal and storage of all signs removed by the Zoning Administrator pursuant to the requirements of the zoning ordinance fee schedule established by the Township Board.

7. Political and campaign election signs are expressly permitted provided such signs are installed on private property and no sooner than ninety (90) days before the date of the election and are removed no later than three (3) days following the date of the election.
8. Real estate signs and other signs, having no more than thirty-two (32) square feet of sign area, offering the property upon which the sign is located "for sale or lease," provided such signs are removed within five (5) days of the closing or leasing of the property.
9. Construction service signs are permitted to be installed on any property for which a Building Permit has been issued until the construction is completed but no longer than seven (7) days thereafter.
10. Temporary signs announcing school, church, fraternal, and other not-for-profit organization activities provided that such signs do not exceed thirty-two (32) square feet of sign area and are installed no more than thirty (30) days prior to the date of the specific event and are removed within three (3) days after the date of the specific event. Illuminated announcement signs are expressly permitted provided the illumination and any other form of lighting ceases at sunset
11. Private garage sale (off site or on site) provided that such signs do not exceed three (3) square feet of sign area, are installed on private property installed no more than seven (7) days prior to the date of the garage sale and are removed within one (1) day after the date of the garage sale.

#### **Section 19.03 - Determination of Sign Surface Area**

For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is a reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

The surface area of a sign shall be computed as including the entire area within a regular geometric form, or combination of regular geometric forms, comprising all of the display area of the sign and including all of the elements of the matter displayed. Framed and structural members not bearing advertising matter shall not be included in computation of surface area.

#### **Section 19.04 - Regulation Governing all Permitted Signs**

The following regulation shall govern all signs, except where the regulations provided by Sections 19.06 through 19.08 establish more stringent requirements in which case the latter shall apply.

1. No sign shall project into or be placed within the right-of-way of a street, road or highway except the traffic control and information signs.
2. There shall be no flashing or intermittent illumination on any sign, or interference with clear driver vision along any highway, street, road or at any intersection of two (2) or more streets, roads or highways, except as provided in Section 19.02 (10). There shall be no moving signs or sign components other than elements of clocks or thermometers. All illuminated signs shall be so placed as to prevent the rays and illumination from being cast upon neighboring residences within a residential district and shall be located not less than one hundred (100) feet from such residential district.

3. The color, saturation, and hue of any illuminated sign shall be such as to preclude confusion with traffic signals.
4. The placement, frequency, size, height, and design of signs shall not deteriorate the scenic environment or contribute to general traffic hazards.

#### **Section 19.05 - Nonconforming Signs and Billboards**

All signs and billboards erected or constructed after the effective date of this Ordinance shall conform to the regulations as set forth in this Ordinance. Any sign or billboard erected or constructed prior to the adoption of this Ordinance and not conforming to the requirements of this Ordinance shall be deemed a nonconforming structure and shall be subject to the provisions of Article V

1. A sign, which is deemed to be nonconforming, may not be enlarged or altered in a way which increases its nonconformity.
2. Should a sign which is deemed to be nonconforming be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
3. Should a sign which is deemed to be nonconforming be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

#### **Section 19.06 - Signs in Residential Districts and the Residential Home Park District**

On-site signs relating in its subject matter to the premises on which it is located, or to products, accommodations, services or activities on the premises, are permitted for the following uses only:

1. For Home Occupations there may be one (1) sign not to exceed two (2) square feet. Said sign may be mounted on the building or on a free standing post or posts not to exceed five (5) feet in height from top of sign as measured, level from the uniform finished grade which shall be placed in accordance with existing setback regulations.
2. One bulletin or announcement board not exceeding thirty-two (32) square feet in area, in RMH, Residential Mobile Home Park Districts only.
3. "For Sale" or "For Rent" signs, not to exceed six (6) square feet in area, advertising only the premises on which erected.
4. In subdivision or condominium developments, one (1) advertising sign having an area of not more than thirty two (32) square feet and having an overall height of not more than twelve (12) feet above the grade.
5. One (1) trespassing, safety or caution sign not over two (2) square feet in area shall be permitted for each two hundred (200) lineal feet of perimeter lot line.
6. A residential neighborhood (Single-Family Subdivision, Multiple-Family, Attached Housing Development, etc.) is permitted to have one Residential Neighborhood Identification Sign for each entrance street. Such signs shall not extend into any public right-of-way. The face of the sign shall not exceed thirty-two (32) square feet. The area of the structural supporting elements shall not exceed 50% of the area of the message portion of the Sign. The height of the Sign may not exceed six (6) feet above the uniform finished grade.
7. Non-Dwelling Use Signs: A Non-Dwelling Use in a residential area, such as a school, a religious facility, an institutional use, a club house, etc., is permitted to have a total of two (2) signs,

wall or ground, or a combination thereof, neither of which shall exceed thirty-two (32) square feet in area” will be considered. The area of the structural elements supporting a Ground Sign shall not exceed fifty percent (50%) of the area of the message portion of the Sign. The height of a Ground Sign may not exceed six (6) feet above the uniform finished grade.

#### **Section 19.07 - Signs on Parking Lots Located in Any District**

One sign shall be permitted at each point of ingress and egress to a parking lot to indicate the operator, parking rates and directions of movement. Each such sign shall not exceed fifteen (15) square feet in area, shall not extend more than ten (10) feet in height above grade and shall be entirely located on the parking lot. Besides the signs indicated in the preceding sentence, only signs advertising the uses being served by the parking may be erected on a parking lot.

#### **Section 19.08 - Signs in All Other Districts**

Identification and advertising signs are permitted as follows:

1. Any sign permitted in any residential or residential-agriculture zoning district.
2. In AG, Agricultural District only, no more than two (2) onsite signs, neither of which shall exceed fifty six (56) square feet in area, with total construction to be no more than ten (10) feet in height as measured, level from the uniform finished grade, shall be permitted. Advertising signs in parking lots shall be included in the computed sign area.
3. In the C, Commercial and the M-1 and M-2 Industrial zoning districts, one (1) or more on-site signs, and the total of all such signs not exceeding a total area of one (1) square foot for each ten (10) square feet of wall surface area facing the front lot line. Advertising signs in parking lots shall be included in the computed sign area. No sign shall be greater than fifty six (56) square feet in area, with total construction to be no more that twelve (12) feet in height, as measured from the uniform finished grade level.

#### **Section 19.09 - First Amendment Protection**

The placement of directional signs, residential neighborhood signs, historical site signs, and flags is specifically authorized in these regulations. All other signs allowed under these regulations may contain any lawful message.

#### **Section 19.10 - Fee for Removal of Signs In Violation of Regulations**

The Township Board shall establish by resolution as part of the fee schedule for administration of this ordinance, fees and/or charges for the removal of any such sign in violation of the terms of these regulations reflecting actual cost and expenses incurred by the Township in the removal and disposal of such signs.

#### **Section 19.11 - Sign Permit Application and Issuance By Zoning Administrator and Inspections**

The Zoning Administrator and/or Building Inspector shall provide an application and sign permit and shall conduct such inspections as required for the enforcement of these regulations and the applicable portions of the Michigan Construction Code.

**ARTICLE XX  
OFF STREET PARKING AND LOADING REGULATIONS**

**Section 20.01 - Required Off-Street Parking In General**

Off-Street Parking required in conjunction with all land and building uses shall be provided as herein prescribed:

1. The minimum number of off-street parking spaces shall be determined in accordance with the following table. For uses not specifically mentioned therein, off-street parking requirements shall be established by the Administrative Official from requirements for similar uses.
2. Any area once designated as required off-street parking shall never be changed to any other use unless and until equally required facilities are provided elsewhere. Off-street parking existing at the effective date of this ordinance in connection with the operation of an existing building, shall not be reduced to an amount less than would hereinafter be required for such building or use.
3. Two (2) or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately. However, in cases of dual functioning of off-street parking where operating hours do not overlap, the Township Board may grant a Special Land Use based on the peak hour demand.
4. Required off-street parking shall be for the use of occupants, employees, visitors, and patrons and shall be limited in use to motor vehicles. The storage of merchandise, motor vehicles for sale, or the repair of vehicles is prohibited. Off-street parking, whether public or private, for nonresidential uses shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the off-street parking lot, without crossing any major street.

**Section 20.02 - Table of Required Off-Street Parking Spaces**

USE	SPACES	PER UNIT OF MEASUREMENT (Rounded off to nearest unit)
Multiple residential	1	Bedroom
Other residential, including dwelling units in all other types of buildings	2	Dwelling Unit
Hospitals, homes for the aged, convalescent homes	2	Each bed
Private clubs	1	100 square feet usable floor area
Tourist homes, motels	1.2	Each rooming dwelling unit
Theaters, auditoriums	1	4 seats
Dance halls and assembly halls without fixed seats	1	100 square feet usable floor area
Houses of worship, mortuaries	1	4 seats; or 28 square feet usable floor area of auditorium, whichever is greater

USE	SPACES	PER UNIT OF MEASUREMENT (Rounded off to nearest unit)
Elementary, Junior High Schools	1	Per teacher, employee, administrator; or 28 square feet of usable floor area of largest auditorium or other public assembly room, whichever is greater
High Schools	1	Per teacher, employee, and administrator; plus 1 space per 10 students; or 28 square feet of usable floor area of largest auditorium or other public assembly room, whichever is greater
Banks, business offices	1	200 square feet usable floor area, plus 1 parking space for each employee
Office of architects, attorneys, accountants, real estate offices, insurance offices	1	500 square feet usable floor area, plus 1 parking space for each employee
Professional offices of dentists and physicians	4 3 2 1	First dentist or physician Second dentist or physician Third dentist or physician Each additional dentist or physician
Stadiums and sports arenas	1	4 seats; or 12 feet of benches
Bowling alleys	5	Alley
Non-residential swimming pools	1	30 square feet of water area
Establishments for sale and consumption of beverages, food, or refreshment on the premises	1	100 square feet usable floor area
Hotel, rooming house	1	Each rooming unit
Beauty parlor or barber shop	2	Barber or beauty shop chair
Retail stores, except as otherwise specified herein	1	150 square feet usable floor area
Furniture & appliance stores; household equipment repair shops; showroom of a plumber, decorator, electrical or similar trade; clothing & shoe repair; cleaners & laundry; motor vehicle sales room	1	500 square feet usable floor area exclusive of usable floor area occupied in processing or manufacturing, for which requirements see industrial establishments below.
Industrial establishments, including manufacturing, research, and testing laboratories; creameries; bottling works; printing, plumbing or electrical workshops; telephone exchange buildings	1	Employee, computed on the basis of greatest number of persons employed at any one period during the day or night

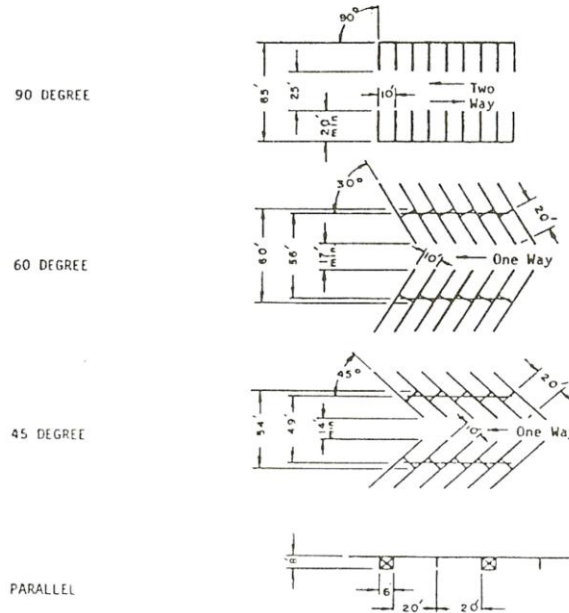
### **Section 20.03 - Off-Street Parking Lot Layout, Construction and Maintenance**

Whenever a parking lot is built as required off-street parking, such parking lot shall be laid out, constructed, and maintained in accordance with the following requirements:

1. Adequate ingress and egress shall be provided for vehicles to the parking lot by means of clearly limited and defined drives.
2. Parking spaces in non-residential districts will be set back from abutting residential districts as follows:
  - a. Ten (10) feet from such side lot line.
  - b. A front lot line setback equal to the adjoining residential required setback, or if no adjoining residential district exists, the setback will be equal to the setback requirements of the district in which the lot is located.
  - c. Ten (10) feet from such rear lot line.
3. The land between the setback line and the lot line in a parking lot is for the purposes of this ordinance called a buffer strip. There shall be bumper stops or wheel chocks provided so as to prevent any vehicle from projecting over the buffer strip. The ground of the buffer strip shall be used only for the purpose of plant materials or sidewalks.
4. Where buffer strips are not required, bumper stops or wheel chocks shall be provided, and so located as to prevent any vehicle from projecting over the lot line.
5. Where the parking lot boundary adjoins property zoned for residential use, a suitable chain link wire fence shall be provided, but shall not extend into the required front open space of the abutting residential lot. Height limits of Section 6 apply to such fences.
6. The parking lot shall be drained to eliminate surface water.
7. The surface of the parking lot, including drives and aisles, excepting the buffer strips, shall be constructed of asphalt, concrete or gravel pavement.
8. Parking structures may be built to satisfy off-street parking regulations when located in other than residential districts, subject to the area, height, bulk, and placement regulations of such district in which located.
9. A plan for all new off-street parking lots shall be required, specifying the landscaping to be installed in the buffer strip including the placement and specifications of landscape materials and shall be subject to approval by the Administrative Official. If seasonal weather conditions present practical difficulties in the installation or completion of the buffer strips, the completion of the buffer strips may be deferred for not more than six (6) months. In reviewing and approving plans for the landscaping and improvement of required buffer strips, the Administrative Official shall be guided by the following criteria:
  - a. The buffer strip shall include landscape materials of shrubs and trees that will result in substantial screening of the parking lot and vehicles from the abutting residential districts.
  - b. The owner of the premises upon which the buffer strip is located shall maintain such landscaping in good condition so as to present a thriving, neat, and orderly appearance - free from refuse and debris. All diseased and dead material shall be replaced within one (1) year or the next appropriate planting period, whichever comes first.

10. The design of parking and loading spaces shall conform to the dimensional requirements contained in the following diagram:

PARKING LAYOUT  
PARKING LAYOUT



**Section 20.04 - Off-Street Loading and Unloading**

On the same premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehousing, retailing, wholesaling, or other uses involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading services adjacent to the opening used for loading and unloading in order to avoid interference with public use of highways, streets, or alleys.



## **ARTICLE XXI SITE PLAN REVIEW PROCEDURES**

### **Section 21.01 - Purpose**

The purpose of this Article is to establish uniform requirements of procedure for all developments in the Township so that the provisions of this Zoning Ordinance can be equitably and fairly applied to all persons seeking to add to the existing development; so that both those developing property and the responsible Township officials can be assured that compliance with the Zoning Ordinance is both possible and correct prior to the issuance of a Zoning Compliance Permit and the starting of construction.

### **Section 21.02 - Developments Requiring Site Plan Approval**

The following land, building, and structural uses require "Site Plan Approval":

- A. All condominiums and land subdivisions including land division plats and lot splits.
- B. All principal and special uses and their accessory uses in all Zoning Districts, except those specified in Section 21.03.
- C. All special uses and their accessory uses in all Zoning Districts.
- D. All principal and special uses and their accessory uses in a Planned Unit Development.

### **Section 21.03 - Developments not Requiring Site Plan Approval**

- A. Single family homes and their accessory uses in all Residential Zoning Districts.
- B. General or specialized farming and forestry and their accessory uses and roadside stands in the AG or R-AG Zoning Districts.

### **Section 21.04 - Role of the Zoning Administrator**

The Zoning Administrator shall not issue a Zoning Compliance Permit for construction of or addition to any use until a final site plan has been approved by the Township Board and is in effect. A use of land requiring site plan review and approval, not involving a building or structure, shall not be commenced or expanded until a final site plan has been approved by the Township Board and a Zoning Compliance Permit has been issued by the Zoning Administrator.

### **Section 21.05 - Site Plan Approval Required Prior to Starting Construction or Use of Land**

No grading, removal of trees or other vegetation, land filling, or construction of improvements shall commence for any development which requires site plan approval, until a final site plan is approved and a Zoning Compliance Permit issued, except as provided in this Article.

### **Section 21.06 - Preliminary Conference on Proposed Site Plan**

An applicant may request a meeting with the Planning Commission for the purpose of reviewing and discussing a proposed preliminary site plan for the purpose of determining the feasibility of the project which the site plan represents. The request may be put on the agenda of a regularly scheduled meeting or on the agenda of a special meeting at the request of the applicant who shall pay all expenses for such a special meeting.

### **Section 21.07 - Preliminary Site Plan Requirements**

A. **Application:** Any person may file a request for preliminary site plan approval by filing required forms with the Zoning Administrator, payment of the review fee, and at least ten (10) copies of a preliminary site plan drawing(s) and other documents. Upon receipt of such application, the Zoning Administrator shall transmit the preliminary site plan drawing(s) and other documents to the Planning Commission.

B. **Information Required for Review:** Every preliminary site plan submitted under this Article shall contain information required by Township regulations for site plan review, as specified in this Section.

1. **Submission Requirements:** Ten (10) copies of each submittal for site plan review shall be submitted to the Planning Commission for each application and site plan. The application shall, at a minimum, include the following information, except that which is deemed unnecessary. The Planning Commission may waive any of the following it deems unnecessary, and may at their discretion require the submittal of specifically needed information in addition to the following:

- a. The applicant's name, address, and phone number in full.
- b. Proof of property ownership and whether there are any options on the property or liens against it.
- c. A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf with the power of attorney to represent the owner in writing.
- d. The name and address of all owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land) and signature(s) of the owner(s).
- e. The address, tax parcel number, and legal description of the property.
- f. Name of project.
- g. A complete project description, including total number of structures, units, offices, square feet of building space, number of parking spaces and employees, the amount of recreation and open space, and related pertinent information as otherwise required by this Ordinance.
- h. Name and address of the developer (if different from the applicant).
- i. Name and address of the engineer, architect, land surveyor, landscape architect or other qualified designer of the project.
- j. A vicinity map drawn at a readable scale with North point indicated, which will satisfactorily be used to determine the exact location of the project property or site.
- k. The gross and net developable acreage involved in the project.
- l. Existing land uses, zoning classification and existing structures on the project and parcel and adjoining parcels including buildings, floor plans (footprint), number of floors, number of bedrooms in all structures, as applicable.
- m. Proposed project completion schedule and development phases, if not to be completed as one phase.
- n. Any use and occupancy restrictions, and if a condominium project, any maintenance provisions for any general and limited common elements as shall be contained in the Master Deed.

2. **Site Plan Requirements:** The site plan shall consist of an accurate, reproducible drawing at a readable and measurable scale of 1 inch equals 100 feet or less, in seven (7) copies, showing the site and all land within 150 feet of the site which depicts the following:

- a. Property lines, dimensions, legal descriptions, setback lines and monument locations to be prepared as a Plot of Survey by a Land Surveyor licensed to practice in the State of Michigan.
- b. Existing topographic elevations at two (2) foot contour intervals, proposed grades and direction of surface drainage and drainage way flows.
- c. The location and type of existing soils on the site and certification of soil borings.

- d. Location and type of significant areas of existing vegetation, wetlands, rock outcroppings, slopes of more than 10 percent, major stands of trees, large individual trees of 2 feet or more in diameter and areas of woodland vegetation (combination of trees, shrubs and other vegetation).
- e. Water courses and water bodies, including lakes, ponds, rivers, streams, flood plains and wetlands, county drains, and manmade surface drainage ways.
- f. Location of existing and proposed buildings and their intended uses as well as the length, width, and height of each building, including front, inside, and rear elevations.
- g. Proposed location of accessory structures, buildings and uses, including but not limited to all flagpoles, light poles, signs, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening, where applicable.
- h. Location of existing public roads, rights-of-ways, and private easements of record.
- i. Location of abutting roads and proposed alignment and gradient of roads, drives, curb cuts and access easements serving the development.
- j. Location and design of all barrier free access ways, including parking areas (including indication of all spaces and type of surfacing), fire lanes, and all outdoor lighting.
- k. Location, size, and characteristics of all off-street loading and unloading areas.
- l. Location and design of all sidewalks, walkways, and bicycle paths.
  - m. Location and design of public or common water supply lines or on-site wells, including fire hydrants and shut off valves, and the location and design of public or common waste water lines, cleanout locations, connection points and treatment systems, or on-site septic tank and tile field systems.
- n. Location of all other utilities on the site including but not limited to natural gas, electric power, cable TV, and telephone.
- o. Location of proposed public or common open spaces and facilities, if applicable.
  - p. Location, design, size, and construction specifications of all signs and advertising features.
- q. Location, design and specifications for all fences, walls, berms, and other screening features with cross sections.
- r. Location, landscape plans, and specifications for all proposed landscaping, and screening and other buffering features for each landscape feature and planting material. The proposed size of plants at time of planting and of all existing vegetation to be retained on the site shall be indicated.
- s. Method for all solid waste disposal.
  - t. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities and regulations.
- u. Identification of any significant site amenities or unique natural features.
  - v. Identification of any significant scenic views onto or from the site to or from adjoining area.
- w. North arrow, scale, and date.
  - x. Seal of the Michigan registered engineer, architect, landscape architect, surveyor, or planner who prepared the site plan.
- y. All required permits, approvals and reviews in written form from all Federal, State, County, Township, School and other public agencies and officials under Federal, State, County or local laws and administrative rules and regulations.

C. **Planning Commission Action:** The Planning Commission shall study the plan and shall, within sixty (60) days of the filing date, recommend the approval with conditions, approval, or denial of the preliminary site plan to the Township Board. If denial is recommended, the Planning Commission shall prepare a report setting forth the conclusions of its study and the reasons for its denial. The time limit may be extended upon a written

request by the applicant and approved by the Planning Commission, or by mutual written agreement between the Planning Commission and the applicant.

- D. **Effect of Approval:** Approval of a preliminary site plan by the Township Board shall indicate its acceptance of the proposed layout of buildings, roads and drives, parking areas, and other facilities and areas, and of the general character of the proposed development. The Township Board may, with appropriate conditions attached, authorize issuance of a grading permit by the Zoning Administrator on the basis of an approved preliminary site plan. The conditions to be attached to a permit issued for grading and foundation work may include, but not necessarily be limited to, provisions for control of possible erosion, for excluding the Township from any liability, if an acceptable plan is not provided, and for furnishing a financial guarantee for restoration of the site if work does not proceed. Site plan approval requires that the applicant meet all of the requirements of the Michigan "Soil Erosion and Sedimentation Control Act," Public Act 347 of 1972, MCL 282.101 et seq.
- E. **Expiration and Extension of Approvals:** Approval of a preliminary site plan shall be valid for a period of six (6) months from the date of approval by the Township Board and shall expire and be of no effect unless an application for final site plan approval is filed with the Zoning Administrator within that time period. A six (6) month extension may be granted upon written request of the applicant and approval of the Township Board. The approval of the preliminary site plan shall also expire and be of no effect one year after approval of a final site plan, unless a Zoning Compliance Permit has been obtained for development shown on the approved final site plan within that time period.

#### **Section 21.08 - Final Site Plan Requirements**

- A. **Application:** Following approval of a preliminary site plan, the applicant shall submit ten (10) copies of a final site plan as well as other data and exhibits hereinafter required to the Zoning Administrator, the review fee, and a completed application form. The Zoning Administrator, upon receipt of the application, and upon payment of any fees and expenses, shall promptly transmit the final site plan to the Planning Commission.
- B. **Information Required for Review:** Every final site plan submitted for review under this Article shall contain information as required by Township regulations for site plan review, as specified in Section Article XXI - Site Plan Review and Article XVI - Planned Unit Developments and Article XXIII - Special Uses, as applicable.
- C. **Planning Commission Action:** The Planning Commission shall study the final site plan and recommend approval, approval with conditions, or denial of the final site plan, if it is consistent with the previously approval preliminary site plan within sixty (60) days of the date of the Planning Commission meeting at which the plan was received. This time limit maybe extended upon written request by the applicant, approval by the Planning Commission, and by mutual written agreement between the Planning Commission and the applicant. The Commission may suggest and/or require changes in the plan if there is need to comply with the Zoning Ordinance.

Upon Township Board approval of the final site plan, the applicant and owner(s) of record, and the Township Clerk or other designated Township official, shall sign the approved plan. The Township Board shall transmit one (1) signed copy of the approved final site plan to the Zoning Administrator, Township Clerk, the applicant, and Planning Commission.

If the final site plan is disapproved, the Township Board shall document the reasons for disapproval in its official minutes.

- D. **Effect of Approval:** Approval of a final site plan authorizes the Zoning Administrator to issue a Zoning Compliance Permit. Approval shall expire and be of no effect after six (6) months following approval by the Township Board, unless a Zoning Compliance Permit is applied for and granted within that time period. Approval of the final site plan shall expire and be of no effect one (1) year following the date of issuance of a Zoning Compliance Permit unless authorized construction has begun on the property in conformance with the approved final site plan. One extension of six (6) months from the date of approval of the final site plan for

good reason, as submitted by the applicant and with the approval of the Township Board may be granted to the applicant.

#### **Section 21.09 - Criteria for Site Plan Review**

In reviewing a preliminary or final site plan, the Planning Commission shall ascertain whether the proposed site plan is consistent with the regulations and objectives of this Ordinance and shall endeavor to assure that they conform to the following criteria:

- A. All elements of the site plan shall be harmoniously and efficiently organized in relation to the topography of the site; the size, shape, and type of the lot; the character and use of adjoining property; and the type and size of existing and proposed buildings and structures. The site shall be so developed as not to impede the normal and orderly planned development or improvement of surrounding and adjacent property for uses permitted in this Ordinance.
- B. The landscape shall be preserved in its natural state, insofar as practical, by minimizing vegetation and soil removal, and by topographic grading modifications which shall result in maximum harmony with adjacent areas.
- C. Special attention shall be given to proper site drainage so that storm water flow will not adversely affect neighboring properties.
- D. The site plan shall indicate the provision of reasonable visual and sound privacy for all building and structural units located on the site. Fences, walks, barriers, and landscaping shall be used in an appropriate manner, for the protection and enhancement of property both on site and adjacent.
- E. All buildings and areas shall be so arranged as to permit emergency vehicles access by some practical means to all parts of the site.
- F. Every structure shall have access to a public road, drive, walkway, and other areas dedicated to common use.
- G. A pedestrian circulation system shall be provided which is separated from the vehicular circulation system.
- H. 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 berms, structures or plant materials and shall be no less than that required in this Ordinance.
- I. Exterior lighting shall be arranged so that the source of illumination is deflected away from adjacent properties and is not visible to traffic traveling on adjacent streets.
- J. Site plans shall conform to all applicable requirements of State and Federal statutes rules and regulations and approval may be conditioned on the applicant receiving required State and Federal permits before final site plan approval is granted.
- K. Site plans shall fully conform to the surface water drainage standards of County and State laws.
- L. Site plans shall fully conform to the driveway and traffic safety standards of the Michigan Department of Transportation and/or the County Road Commission.
- M. Site plans shall fully conform to applicable fire safety and emergency vehicle access requirements of the Michigan Construction Code and/or local Fire Code and Fire Chief.
- N. Site plans shall fully conform to the County Soil Erosion and Sedimentation Control Ordinance requirements.
- O. Site plans shall fully conform to the requirements of the Michigan Department of Health and the County Health Department.

- P. Utility Service: Electric power and telephone distribution lines shall be underground. Any utility installations remaining above ground shall be located so as to have a harmonious relation to adjacent properties and the site. The proposed method of water supply and wastewater disposal from all buildings shall be indicated. All utility installation shall be carried out in accordance with the Standard Rules and Regulations of current adoption of the Michigan Public Service Commission.
- Q. Advertising Features: The size, location and lighting of all permanent signs and outdoor advertising structures or features, shall be consistent with the requirements of Article XIX - Sign Regulations.
- R. Special Features: Outdoor storage areas, outdoor machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures, shall be subject to setbacks, screen plantings or other screening methods required to prevent their being publicly visible and incongruous with the existing natural and developed uses and the environment and the uses of adjacent and surrounding properties.
- S. Additional Requirements: All other standards and requirements of this Article shall be met by site plans presented for review.

#### **Section 21.10 - Modification Procedure**

An applicant may, at his discretion and risk, combine a preliminary and final site plan in the application for approval. In such a situation, the portion of the review process concerning preliminary site plan application and review may be waived by the Planning Commission. The Commission shall have the discretion and the authority to require submittal of a preliminary site plan separate from a final site plan where, in its opinion, the complexities and/or scale of the site of the proposed development so warrants the need to require both the preliminary and final site plan review and approval procedures.

#### **Section 21.11 - Amendment of an Approved Site Plan**

A site plan may be amended upon application and in accordance with the procedures provided in Section 21.07 herein, for a preliminary site plan, and Section 21.08 herein, for a final site plan. Minor changes in a preliminary site plan may be incorporated in a final site plan without amendment to the approved preliminary site plan at the discretion of the Township Board. The Township Board shall also have authority to determine if a proposed change requires an amendment to the approved site plan.

#### **Section 21.12 - Modification During Construction**

All site improvements shall conform to the approved final site plan. If the applicant chooses to make any changes in the development in relation to the approved final site plan, the applicant shall do so at his own risk, without any assurance that the Township Board will approve such changes. It shall be the responsibility of the applicant to notify the Zoning Administrator and the Township Board in writing of any such changes. The Zoning Administrator or the Township Board may require the applicant to correct the changes so as to conform to the approved final site plan.

#### **Section 21.13 - Phasing of Development**

The applicant may, at his discretion, divide the proposed development into two (2) or more phases. In such case, the preliminary site plan shall clearly indicate the location, size, and character of each phase. A preliminary and final site plan for each phase shall be submitted for approval.

#### **Section 21.14 - Inspection**

All underground improvements, such as utilities, subbase and base installations for roads, drives, walls, parking lots, and similar improvements shall be inspected by the Township Engineer, or other person designated by the Township Board, and accepted by action of the Township Board prior to covering. The Zoning Administrator shall be responsible for the inspection of all site improvements for conformance to the approved final site plan. The applicant shall be responsible for requesting appointments for making the necessary inspections. The Zoning Administrator shall notify the Township Board, in writing, when a development for which a final site plan was approved does not pass inspection with respect to the approved final site plan, and shall advise the Board of steps to be taken to achieve compliance. In such cases, the Zoning Administrator shall periodically notify the Township Board of progress towards compliance with the approved final site plan, and when and if compliance is achieved. The fee schedule established by the Township Board shall include a special schedule of fees to cover large and costly projects so as to adequately cover the costs of the Township inspections of such projects as required under the provisions of this Ordinance.

#### **Section 21.15 - Fees**

Fees for the review of site plans and any expenses associated with inspections incurred by the Township as required by this Article shall be established as part of the fee schedule established by resolution by the Township Board.

#### **Section 21.16 - Financial Guarantees**

Bonds, cash deposits, irrevocable bank letters of credit, or other acceptable forms of financial security shall be required of the applicant after a final site plan is approved and prior to issuance of a Zoning Compliance Permit for certain site improvements such as, but not limited to, roads or drives, parking lots, grading, landscaping, and buffers. A schedule for such financial security shall be established by resolution of the Township Board, and shall be administered by the Zoning Administrator. Such financial security may be released in proportion to work completed and approved upon inspection by the Zoning Administrator as complying with the approved final site plan. In the event that the applicant shall fail to provide improvements according to the approved final site plan, the Township Board shall have the authority to have such work completed, and to reimburse itself for costs of such work by appropriating funds from the deposited financial security, or may require performance by the bonding company.

#### **Section 21.17 - Violations**

The approved final site plan shall regulate development of the property. Any violation of this Article, including any improvement not in conformance with an approved final site plan, shall be deemed a violation, and shall be subject to the penalties of this Ordinance.

**ARTICLE XXII  
RESERVED**



## **ARTICLE XXIII SPECIAL LAND USES**

### **Section 23.01 - Intent**

Special Land Uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the natural environment of the site, the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this Section is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish special land uses. The standards for approval and requirements provided for under the provisions of this Section shall be in addition to those required elsewhere in this Ordinance which are applicable to the special land use under consideration.

### **Section 23.02 - Township Board Approval of Special Land Use Permits**

The Sodus Township Board, hereinafter referred to as the Township Board, shall issue Special Land Use Permits, provided:

1. The proposed use is one listed as a special land use for that district in which said use is proposed to be located; and
2. The Sodus Township Board finds before approving a Special Land Use Permit request that both:
  - a. the standards of the district in which the special land use is to be located are fulfilled; and
  - b. the standards or other requirements of this Section are fully complied with.

### **Section 23.03 - Application and Approval Procedures**

An application for permission to establish a special land use shall be submitted and acted upon in accordance with the following procedures:

1. **Eligible Applicants.** Any person owning or having an interest in the subject property may file an application for one or more Special Land Use Permits provided for in this Ordinance in the zoning district in which the land is situated.
2. **Application Submission.** Applications for Special Land Use Permits shall be submitted through the Sodus Township Clerk, hereinafter referred to as the Township Clerk, to the Sodus Township Board. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.
3. **Required Information.** Three (3) copies of an application for a Special Land Use Permit shall be presented to the Township Clerk and accompanied by, but not limited to, the following documents and information:
  - a. A Special Land Use Permit application form supplied by the Township Clerk which has been completed in full by the applicant.
  - b. A site plan in conformance with Article XXI, of this Ordinance.
  - c. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Section 23.03 and other standards imposed by this Ordinance affecting the special land use under consideration.
  - d. **Incomplete Application.** An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

4. **Transmittal of Application for Planning Commission Review.** The Township Clerk shall forward a copy of the application for the special land use request to the Township Planning Commission within seven (7) days of receiving the request. The Planning Commission shall review the application, in compliance with Section 23.03 and make recommendations, within forty-five (45) days after receipt thereof, to the Township Board for consideration. All comments or recommendations shall be advisory and be submitted in writing to the Township Board.

5. **Public Hearing before Planning Commission.** After a preliminary review of the site plan and an application for a Special Land Use Permit, the Township Planning Commission shall hold a hearing on the site plan and special land use request. Notice of the hearing shall be given in accord with the provision of Section Article XVII, Section 27.03 and 27.04.

6. **Township Board Review and Approval.** The review of an application and site plan requesting a Special Land Use Permit shall be made by the Township Board in accord with the procedures and standards specified in Section 23.03 and 21.09. If a submitted application and site plan do not meet the requirements of the Ordinance, they may not be approved. However, if the applicant agrees to make changes to the site plan and application in order to bring them into compliance with the Ordinance, such changes shall be allowed and shall be either noted on the application or site plan itself, or attached to it, or these documents shall be resubmitted incorporating said changes. A site plan and application for a Special Land Use Permit shall be approved by the Township Board if they comply in all respects with the requirements of this ordinance and other applicable county, state or federal laws, rules or regulations. Approval and issuance of a Special Land Use Permit shall signify prior approval of the application and site plan therefore, including any modification and any conditions imposed where necessary to comply with this ordinance. The site plan, as approved, and any statements of conditions and modifications shall become part of the Special Land Use permit and shall be enforceable as such. The decision to approve or deny a request for a Special Land use Permit shall be retained as a part of the record of action on the request and shall incorporate a statement of conclusions which specify; the basis for the decision, any changes to the originally submitted application and site plan necessary to insure compliance with the ordinance, and any conditions imposed with approval. Once a Special Land Use Permit is issued, all site development and use of land on the property affected shall be consistent with the approved Special Land Use permit, unless a change conforming to Ordinance requirements receives the mutual agreement of the landowner and the Township Board and is documented as such.

7. **Issuance of a Special Land Use Permit by Zoning Administrator.** Upon approval by the Township Board, the Zoning Administrator shall issue a Special Land Use Permit to the applicant. It shall be the responsibility of the Zoning Administrator to monitor compliance with the terms, conditions, and restrictions of any Special Land Use Permit and take any enforcement action necessary in the event of a violation of the Special land Use Permit.

#### **Section 23.04 - Standards for the Determination of Approval or Denial**

Prior to approval of a special land use application and required site plan, the Township Board shall insure that the standards specified in this section as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special land use under consideration.

1. **General Standards.** The Township Planning Commission shall review the particular circumstances of the special land use request under consideration in terms of the following standards, and shall submit for approval by the Township Board a special land use request only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

- a. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.

- b. The special land use shall not inappropriately change the essential character of the surrounding area.
  - c. The special land use shall not interfere with the general enjoyment of adjacent property.
  - d. The special land use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
  - e. The special land use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.
  - f. The special land use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special land use shall be able to continually provide adequately for the services and facilities deemed essential to the special land use under consideration.
  - g. The special land use shall not place demands on public services and facilities in excess of available capacity.
  - h. The special land use shall be consistent with the intent and purpose of this Ordinance, and the objectives of any currently adopted Township Development Plan.
2. **Conditions.** The Township Board may impose reasonable conditions with the approval of a special land use application and site plan which are necessary to insure compliance with the standards for approval stated in this section and any other applicable Township ordinances and regulations. Such conditions shall be considered an integral part of the Special Land Use Permit and approved site plan and shall be enforced by the Zoning Administrator.

The conditions may include conditions necessary 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, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

3. **Performance Guarantee.** In authorizing a Special Land Use Permit, the Township Board may require that a cash deposit, certified check, or irrevocable bank letter of credit be furnished by the developer to insure compliance with an approved site plan and the Special Land Use Permit requirements. Such guarantee shall be deposited with the Township Clerk at the time of the issuance of the Special Land Use Permit. In fixing the amount of such performance guarantee, the Township Board shall limit it to reasonable improvements required to meet the standards of this Ordinance and to protect the natural resources or the health, safety and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area including, but not limited to roadways, lighting, utilities, sidewalks, screening and drainage. The term "improvements" does not include the entire project which is the subject of zoning approval nor to improvements for which a performance guarantee has been deposited pursuant to Act No. 288 of 1967, as amended. The Township Board and the project developer shall establish an agreeable procedure for the rebate of any cash deposits required under this section, in reasonable proportion to the ratio of the work completed on the required improvements as work progresses. Said agreement shall be written as an element of the conditions surrounding the approval of the Special Land Use Permit.

### **Section 23.05 - Effective Date and Issuance of Special Land Use Permit**

The Special Land Use Permit shall become effective when the application has been approved by the Township Board.

1. A building permit shall not be issued until approval of such Special Land Use Permit by the Township Board.

2. Until a building permit has been granted pursuant to the Special Land Use Permit, there shall be no construction or excavation of said land, nor shall use of the land be made toward the intended purposes of such Special Land Use Permit.

3. Land subject to a Special land Use Permit may not be used or occupied for purposes of such special land use until after a certificate of occupancy for same has been issued pursuant to the provisions of this Ordinance.

#### **Section 23.06 - Permit Validity**

1. Approval of a Special Land Use Permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by any subsequent owner.
2. In instances where development authorized by a Special Land Use Permit has not commenced within one year from the date of issuance or the last date of review authorized by this subsection, the Township board shall review the permit in relation to the applicable standards and requirements of this ordinance. Upon a finding that there has been a change in conditions on the property or the surrounding area or in provisions of this Ordinance applicable to the Special Land Use Permit under review, such that the permit is no longer in conformance with the requirements of this Ordinance, the property owner shall be notified prior to the revoking of said permit. Where it is determined that such permits are in conformance with the provisions of this Ordinance and there has not been a change in conditions affecting the validity of the permit, the Special Land Use Permit shall remain valid, subject to periodic review in accord with the provisions of this subsection.

#### **Section 23.07 - Requirement for Compliance and Penalties**

It shall be the duty and obligation of the owner(s) and occupant(s) or operator(s) of land and uses subject to a Special Land Use Permit and approved site plan therefore, that the continued use of such land shall at all times be in compliance with the use requirements of this Ordinance. Failure thereof shall be a violation of this Ordinance and subject to the penalties and remedies provided in Article XXV, Sections 25.06, 25.07, 25.08, 25.09, and 25.10, and the continuance thereof is declared to be a nuisance per se.

#### **Section 23.08 - Once Granted a Special Land Use Permit, the Use is a Permitted Use**

Any use for which a Special Land use Permit has been granted shall be deemed a conforming use permitted in the district in which such use is located provided:

1. Such permit was issued in conformity with the provisions of this Ordinance, and
2. Such permit shall be deemed to effect only the lot or portion thereof and uses thereupon for which the Special Land Use Permit shall have been explicitly granted, and
3. Such permit authorizes a use which is subsequently built, operated and maintained in compliance with the ordinance, the Special Land Use Permit, and all conditions established with its approval.

#### **Section 23.09 - Specific Requirements of the Zoning District Apply**

The foregoing general requirements are basic and apply to all special land uses. Specific requirements of the zoning district in which the property upon which the special land use is to be located relating to particular special land use are in addition to, and shall be required in all applicable situations.

## **ARTICLE XXIV CONDITIONAL REZONING**

### **Section 24.01 - Intent**

It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act, P. A. 110 of 2007, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

### **Section 24.02 - Application and Offer of Conditions**

- A. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
- B. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
- C. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- D. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- E. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- F. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
- G. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- H. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

### **Section 24.03 - Planning Commission Review**

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in the Township Zoning Ordinance and this Article, may recommend approval, approval with recommended changes, or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

### **Section 24.04 - Township Board Review and Approval Procedure**

After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in the Township Zoning Ordinance and this Article. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with Section 401 (7) of the Michigan Zoning, Enabling Act, P. A. 110 of 2007, as amended, refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

#### **Section 24.05 - Approval**

- A. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
- B. The Statement of Conditions shall:
  - 1. Be in a form recordable with the Berrien County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
  - 2. Contain a legal description of the land to which it pertains.
  - 3. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
  - 4. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
  - 5. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Register of Deeds.
  - 6. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
- C. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Zoning Administrator shall maintain a listing of all lands rezoned with a Statement of Conditions.
- D. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
- E. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

#### **Section 24.06 - Compliance with Conditions**

- A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of the Zoning Ordinance and this Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement and/or specific performance as provided by law.
- B. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

#### **Section 24.07 - Time Period for Establishing Development or Use**

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within eighteen (18) months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

#### **Section 24.08 - Reversion of Zoning**

If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection 24.07 above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

#### **Section 24.09 - Subsequent Rezoning of Land**

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection 25.08 above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds a notice that the Statement of Conditions is no longer in effect.

#### **Section 24.10 - Amendment of Conditions**

- A. During the time period for commencement of an approved development or use or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
- B. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

#### **Section 24.11 - Township Right to Rezone**

Nothing in the Statement of Conditions or in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act, P.A. 110 of 2007, as amended.

**Section 24.12 - Failure to Offer Conditions**

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

**Section 24.13 - Consideration**

In reviewing an application for the rezoning of land, whether the application is made with or without an offer of conditions, factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following:

- A. Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan;
- B. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
- C. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and
- D. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.



## **ARTICLE XXV ADMINISTRATION AND ENFORCEMENT**

### **Section 25.01 - Purpose**

The purpose of this Article is to provide for the organization of personnel and procedures for the administration of the Ordinance, including the submittal and review of land use and development plans, issuance of land and structural use zoning compliance permits, inspections of properties for compliance with the Zoning Map and regulations, establishment and collection of permit fees, handling of violators and enforcement of the provisions of this Ordinance and any amendments to it.

### **Section 25.02 - Administration**

The provisions of this Ordinance shall be administered by the Building Inspector and/or Zoning Administrator, Township Board, the Township Planning Commission and such other personnel as designated by the Township Board in accordance with the Michigan P.A. 33 of 2008, as amended, "Michigan Planning Enabling Act", Michigan P.A. 110 of 2007, the "Michigan Zoning Enabling Act", as amended, and this Zoning Ordinance.

The Township Board may employ a Zoning Administrator who shall act as the officer to carry out the enforcement of this Ordinance. The person selected, the terms of employment, and the rate of compensation shall be established by the Township Board.

### **Section 25.03 - Duties of Zoning Administrator**

- A. Receive and review all applications for Zoning Permits, including those for approved Special Uses, Planned Unit Developments, and Zoning Board of Appeals grants of variances, and approve or disapprove such Zoning Permit applications, plus Temporary Medical Hardship Permits for temporary dwelling structures pursuant to Article XVIII, Section 18.14, based on compliance with the provisions of this Ordinance and shall approve issuance of the permit, if the use and the requirements of this Ordinance and any approved site plans are met.
- B. The Zoning Administrator shall assist the Township Board, the Planning Commission and the Zoning Board of Appeals in the processing and administering of all zoning appeals for variances, special use permits, planned unit developments, and amendments to the Zoning Ordinance.
- C. The Zoning Administrator shall be responsible to update the Official Township Zoning Map and keep it current, and the map shall be placed on file in the Township Clerk's office.
- D. The Zoning Administrator shall prepare and submit to the Township Board and the Planning Commission a written record of all Zoning Compliance Permits issued during each quarter of the calendar year. The record shall state the owner's name, location of property, intended use, and estimated cost of construction for each permit.
- E. Maintain written records of all actions taken by the Zoning Administrator.
- F. Grant Administrative Variances as provided in this Article.
- G. Provide period reports to the Township Supervisor.

### **Section 25.04 - Reserved**

### **Section 25.05 - Zoning Compliance Permit**

#### **A. Zoning Compliance Permit Requirements**

A Zoning Compliance Permit is required for and shall be obtained after the effective date of this Ordinance from the office of the Zoning Administrator or his agent by the owner or his agent for the following conditions:

1. The administrative coordination of Zoning Compliance Permits issued by the Township Zoning Administrator and Building Permits by the Building Inspector shall be in accordance with Section 24.05.B of this Ordinance.

2. The staking out, grading or any other construction relating to all land developments intended or capable of meeting the requirements of this Ordinance for possible land, building, or structural use.

3. The construction, enlargement, alteration, demolition, or moving of any dwelling, building, or structure or any part thereof, being used or to be used for agricultural, residential, commercial, industrial, public, or semi-public purposes.

4. Repairs of a minor nature or minor alterations which do not change the use occupancy, area, structural strength, fire hazard, fire protection, exits, light, and ventilation of a building shall not require a Zoning Permit.

**B. Application for a Zoning Compliance Permit**

Application for a Zoning Compliance Permit shall be made by the property owner and other owners or an owner(s) designated representative in writing upon a form furnished by the Zoning Administrator, including the following information either on the application form, supporting documentation, or on a site plan:

1. The location, shape, area, and dimensions for the parcel(s), lot(s) or acreage, and all existing improvements on the lot or parcel delineated on a plot of survey prepared by a licensed Land Surveyor, including rights-of-ways, easements, sewer and water, drainage, and at the request of the Zoning Administrator, other data including: 1) large trees six (6) inches or more in diameter for the portion of the site to be developed, 2) important natural features, including shorelines, surface water features, wetlands, and when required for analysis of compliance with the terms of this ordinance, topography at two (2) foot contour intervals.

2. The location of the proposed construction, upon the parcel(s), lot(s), or acreage affected, including all buildings and structures, e.g. walls, fences, berms, walks, drives, roads, parking areas, landscaping, buffers, and utilities.

3. The dimensions, height, and floor area of structures, including the perimeter pattern of foundation (“footprint”) for each building and structure.

4. The type of the proposed construction, alteration, or repair and the intended use, including buildings and structures, water supply and wastewater disposal systems, surface and underground drainage and impoundment system, public utilities, offices, working areas, and recreation rooms.

5. The proposed number of dwelling units, sleeping rooms in each dwelling unit, occupants per dwelling unit and employees, customers, other uses (commercial, industrial, public and semi-public), and the floor area dimensions of each.

6. The present use of any structure affected by the construction or alteration.

7. All yard, open land area, and parking space dimensions, if applicable.

8. The proposed plan and specifications of curb cuts, walks, drives, driveway entrance lanes, and off street parking spaces, if applicable.

9. The proposed plan and specifications of off-street loading and unloading spaces provided, if applicable.

10. Present zoning, proposed and required minimum setbacks, proposed and permitted maximum lot coverage, and zoning of adjacent properties.

11. Height, size, and location of all signs, including both freestanding and on structures.

12. Any other information deemed necessary by the Zoning Administrator to determine and provide for conformance to and the enforcement of this Ordinance and to assure compliance of approved site plans for special uses and planned unit developments.

13. A statement on the potential impact of the proposed development on the present natural conditions of the lot or parcel and the impact on adjacent properties and their present and future uses.

**C. Project Compliance Requires Issuance of Permit**

If the information included in and with the application is in compliance with these requirements and all other provisions of this Ordinance, the Zoning Administrator shall issue a Zoning Compliance Permit upon payment of the required Zoning Compliance Permit fee.

**D. Voiding of Permit**

Any Zoning Compliance Permit granted under this Article shall be null and void unless the development proposed shall have its first inspection within one (1) year from the date of granting the permit. It is the responsibility of the recipient of any approval granted pursuant to the terms of this ordinance to notify the Zoning Administrator, 30-days prior to the expiration of any permit issued by the Township requesting an extension. Failure to contact the Zoning Administrator, in writing, requesting an extension shall void the permit immediately upon the expiration date.

**E. Fees, Charges, and Expenses**

The Township Board shall establish a schedule of fees, charges, and expenses and a collection procedure for Zoning Compliance Permits, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be on file in the Township Clerk and Zoning Administrator offices and may be altered or amended only by the Township Board. No permit, certificate, special use approval, or variance shall be issued until such costs, charges, fees, or expenses listed in this Ordinance have been paid in full according to the provisions of the resolution establishing the fee schedule, nor shall any action be taken on proceedings before the Zoning Board of Appeals, until all applicable charges and fees have been paid in full.

**F. Inspection**

The construction or usage affected by any Zoning Compliance Permit shall be subject to the following inspections:

1. At the time of staking out a building foundation or the location of a structure.

2. Upon completion of the construction authorized by the Zoning Compliance Permit.

3. It shall be the duty of the holder of every Zoning Compliance Permit to notify the Zoning Administrator when construction is ready for inspection. Upon receipt of such notification for the first inspection, the Zoning Administrator shall determine whether the location of the proposed building(s) and structure(s), as indicated by corner and location stakes, is in accordance with yard setbacks and other requirements of the Ordinance. The Zoning Administrator shall then issue his written approval at the time of inspection if the building or proposed construction meets the requirements of this Ordinance.

4. Should the Zoning Administrator determine that the building or structure is not located according to the site and construction plans filed, or is in violation of any provision of this Ordinance, or any other applicable law, he shall so notify, in writing, the holder of the permit or his agent. Further construction shall be stayed until correction of the defects set forth has been accomplished and

approved upon notice and request for re-inspection by the applicant and those inspections completed and compliance certified in writing by the Zoning Administrator.

5. Should a Zoning Compliance Permit holder fail to comply with the requirements of the Zoning Administrator at any inspection stage, the Zoning Administrator shall cause notice of such permit cancellation to be securely and conspicuously posted upon or affixed to the construction not conforming to the Ordinance requirements, and such posting shall be considered as service upon the notice to the permit holder of cancellation thereof; and no further work upon said construction shall be undertaken or permitted until such time as the requirements of this Ordinance have been met. Failure of the permit holder to make proper notification of the time for inspection shall automatically cancel the permit, requiring issuance of a new permit before construction may proceed.

**G. Certificate of Occupancy**

No building or structure or use for which a Building Permit has been issued shall be used or occupied until the Administrative Official has, after final inspection, issued a Certificate of Occupancy indicating his opinion that all the provisions of this ordinance are being complied with. The issuance of a Certificate of Occupancy shall in no case be construed as waiving any provision of this ordinance.

**Section 25.06 - Violations and Penalties**

Any person, partnership, corporation, or association who violates any provision of this ordinance shall be guilty of a misdemeanor punishable by imprisonment in jail for not more than ninety (90) days, or the maximum fine established by a court of competent jurisdiction, or both such imprisonment and fine, together with the cost of prosecution. Each day that such violation continues shall constitute a separate and distinct violation under the provisions of this Ordinance. A prosecution under this section shall be commenced by an appearance ticket signed by the Zoning Administrator, or other official designated by the Township Board, or by a complaint and warrant issued by the Trial Court of Berrien County. The imposition of any sentence shall not exempt the offender from compliance with the provisions of this Ordinance.

**Section 25.07 - Nuisance Per Se**

Any land, dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted, or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.

**Section 25.08 - Nuisance Penalties**

Any person, partnership, corporation, or association who creates or maintains a nuisance per se as defined in Section 25.07 above, shall be guilty of a misdemeanor punishable in accord with the provision of Section 25.06, above.

**Section 25.09 - Abatement of Nuisance**

In addition to the criminal penalties provided in this Ordinance, the Township may initiate proceedings in Trial Court of Berrien County to abate or eliminate the nuisance.

**Section 25.10 - Show Cause Hearing**

Before initiating or requesting enforcement action under this Ordinance, the Township Board, Zoning Board of Appeals, or Planning Commission may, but is not required, to issue a notice of hearing directed to the person, partnership, corporation, or association alleged to be in violation of this Ordinance. The purpose of this hearing is to grant to the alleged violator(s) an opportunity to show cause why enforcement action should not be commenced. The notice issued pursuant to this section shall note the date, time, and location of the hearing. The notice shall be sent to the alleged violator(s) by first-class mail at the last known address as appears on the tax assessment rolls or at a different address known to the Township to be the address of the alleged violator(s). Any alleged violator served with a notice of hearing as provided in this section shall not be required to attend the hearing.

## **ARTICLE XXVI ZONING BOARD OF APPEALS**

### **Section 26.01 - Establishment of Board of Appeals**

There is hereby established a Zoning Board of Appeals, which shall perform its duties and exercise its powers as provided by Section 601, P. A. 110 of 2007, as amended, the "Michigan Zoning Enabling Act" and as provided in this Ordinance in such a way that the objectives of this Ordinance shall be enforced, the public health, safety, and welfare secured, and substantial justice done.

### **Section 26.02 - Membership and Terms of Office**

#### **A. Regular Members**

The Zoning Board of Appeals shall consist of five (5) members. The first member of such Board of Appeals shall be a member of the Township Planning Commission, to be appointed by the Planning Commission, for the terms of office; the second member may be a member of the Township Board, selected by the Township Board for the term of office; and the other members shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township for terms of three (3) years provided that no elected officer of the Township, nor any employee of the Township Board may serve simultaneously as the elector member or as an employee of the Zoning Board of Appeals. The Chairman of the Zoning Board of Appeals shall be elected from among any of its members each year at the first regular meeting held at the beginning of each calendar year. The Township Board member appointed to the Zoning Board of Appeals shall not serve as Chairman nor shall the Township Planning Commission member serve as the Chairman if they also hold the position as Chairman of the Township Planning Commission.

#### **B. Alternate Members**

The Township Board may appoint two (2) alternate members for the same term as the regular members who may be called by the Chairman to serve in the absence of a regular member (for any reason) or upon the excused absence of a regular member (for any reason) to serve as a regular member of the Zoning Board of Appeals. In such cases the alternate member shall be afforded the same voting rights as a regular member and serve in the capacity as a regular member for any and all cases until a final decision is made.

### **Section 26.03 - Rules of Procedure, Majority Vote**

The Board may adopt its own bylaws or rules and procedures as may be necessary to properly conduct its meetings and activities. The concurring vote of a majority of the membership of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which they are required to pass under this Ordinance or to effect any variation in this Ordinance due to unnecessary hardship or practical difficulties.

### **Section 26.04 - Meetings**

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman or by any two of its members, excluding alternate members, and at such other times as the Board in its bylaws may specify.

### **Section 26.05 - Public Meetings and Minutes**

All meetings of the Zoning Board of Appeals shall be open to the public. Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered, together with the record of the final disposition of each case. The grounds or reasons of every determination shall be stated, in writing, and recorded as part of the official minutes and record of the Board. Such minutes shall accompany and be attached to the standard forms required of persons appealing as part of the Zoning Board of Appeals' permanent records. Such minutes shall be filed in the office of the Township Clerk and shall be sent promptly to the applicant or appellant and to the Zoning Administrator. The Township Clerk shall act as the depository for all official files of the Zoning Board of Appeals.

### **Section 26.06 - Powers and Duties**

The Zoning Board of Appeals shall have powers to interpret the provisions of this Ordinance, to grant variances from the strict application of any provisions of this Ordinance, and as otherwise provided in this Ordinance.

- A. The Zoning Board of Appeals shall hear and decide appeals from, and review any order, requirement, decision or determination made by the Township Board, Planning Commission, or Zoning Administrator in the administration of this Ordinance as hereinafter provided, and shall have power to interpret the provisions of this Ordinance and to grant variances from the strict application of any of the provisions of this Ordinance as follows:
1. To decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty about its location.
  2. To grant variances from any of the regulations or provisions contained in this Ordinance in cases in which there are practical difficulties or unnecessary hardships resulting from such strict application. No variance shall be granted to permit the establishment within a district of any use which is specifically not included, is prohibited, or for which a special use approval is required.
  3. To permit the erection and use of a building, or an addition to an existing building of a public service corporation or for public utility purposes, in any permitted district to a greater height or larger area than the requirements herein established; and permit the location in any district of a public utility building, structure or use, if the Board shall find the use, height, area, building or structure reasonably necessary for the public convenience and service; and provided that such building, structure or use is designed, erected and landscaped to conform harmoniously with the general architecture and environmental character of the District in which it is to be located.
  4. Determine the classification of off-street parking and loading requirements in Article XIX, Section 19.09.

**Section 26.07 - Variances**

A variance from the terms of this Ordinance shall not be granted by the Zoning Board of Appeals unless and until:

- A. A written application for a variance is submitted by a fee owner and other owners or a designated representative, demonstrating:
1. That special conditions and circumstances exist which are peculiar to the land, land use, structure or building in the same Zoning district so as to present such a unique situation that a precedent will not be established for other properties in the District to also ask the same or similar change through the Zoning Appeal procedure.
  2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same Zoning district under the provisions of this Ordinance.
  3. That granting of the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this Ordinance to other lands, structures, or buildings in the same Zoning District.
  4. That issuance of any variance or the acknowledgement of any nonconformity regardless of the zoning district designation shall be considered grounds for the issuance of a variance.
- B. The Zoning Board of Appeals shall make findings that the requirements of this Ordinance have been met in the Zoning district in which it is located by the applicant for the variance requested.
- C. The Zoning Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located.

- D. The Zoning Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious or otherwise detrimental to the public welfare of the zoning district in which it is to be located.
- E. In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in order for the variance to be in conformance with this Ordinance as much as reasonably possible. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance, and punishable under Sections 25.06 through 25.10 of this Ordinance.
- F. Under no circumstances shall the Zoning Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the zoning district in which the variance requested is to be located.
- G. In making the above determinations the Zoning Board of Appeals shall refer to the following considerations:
1. The requested variance is applicable to only the property under the ownership control of the applicant.
  2. The requested variance is not the result of an action taken by the applicant to specifically create the conditions leading to the request.
  3. The requested appeal will not be contrary to the intent and purpose of any part of this Zoning Ordinance.
  4. The requested variance(s) will be the minimum variance(s) required to allow the property owner to overcome the adversity created by the Zoning Ordinance to the extent that the property cannot be used for any reasonable purpose.
  5. The requested variance will overcome the possibility of economic considerations to the extent that confiscation or the lack of reasonable profitability of the property will not result, but, if the variance is requested to simply make its use unreasonably valuable, or profitable, the variance has no standing if it is found that these are the only reasons the variance is requested.
  6. The requested variance, if granted, is based primarily on the fact that the property in question is unique or different from all other properties in the same Zoning district as to find it necessary to grant the variance in order to give the unique property the same privileges of use as that which is both permitted and enjoyed by all other properties in the same District.
  7. The requested variance, if granted, will not create a precedent which can be applied generally to other properties in the same District, so as to establish through the precedent, what in effect could become and should be legislative action to amend the Zoning Ordinance rather than to create the possibility of granting variances over and over again for the same reason.
  8. The request, if granted, will not cause a substantial adverse effect upon adjacent properties in the District or the Zoning Ordinance itself in a more general way.
  9. The requested variance will not unreasonably alter the essential character of the Zoning district in which it is located as to either dimensional requirements or permitted uses.
  10. The requested variance will not create a hazard to the public health, safety, and general welfare of the persons in the Zoning district and the Township generally.
  11. The requested variance will not produce nuisance conditions to the occupants of adjacent properties and the surrounding area in terms of the emission of noise, odor, dust, smoke, vibration, glare, heat, or inconsistent or untimely activity in relation to that normally associated with the permitted use activities in the District.

12. The requested variance will not add substantially more to the generation of traffic than that which is generated by other permitted uses in the District.

13. That the requested variance, if dimensional in nature, is the result of conditions existing in relation to a lot or parcel, but not of the creation of the applicant, including such possibilities as narrowness, shallowness, or irregular shape of lot due to platting or parceling prior to the enactment of this zoning ordinance, or if the lot or parcel has unusual natural characteristics such as topography, water features, wetlands, vegetation, geological or soil conditions, historical, archaeological or other unusual features, etc.

14. That the variance granted is the minimum necessary to permit the reasonable use of the property in terms of the comparable reasonable use of all other properties in the Zoning District.

#### **Section 26.08 - Voiding of and Re-application for Variances**

- A. Each variance granted under the provisions of this Ordinance shall become null and void unless the use and construction authorized by such variance or permit has been commenced within one year (1) after the granting of such variance.
- B. No application for a variance which has been denied wholly or in part by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from such denial, except on grounds of new evidence or proof of changed conditions found by the Zoning Board of Appeals to be valid.

#### **Section 26.09 - Procedure for Appealing to the Zoning Board of Appeals**

- A. **Appeals, How Taken:** Appeals from the ruling of the Township Zoning Administrator may be made to the Zoning Board of Appeals in the following manner:
  - 1. The person, firm or agent thereof making the appeal shall include the fee owner of the property in question and others and shall file in writing to the Township Clerk a letter stating what the specific appeal is and the reasons for said appeal. The appeal shall be filed by not less than thirty (30) days prior to regular monthly meeting of the Zoning Board of Appeals.
  - 2. The Township Clerk submits the written appeal, along with all papers constituting the record from which the action appealed was taken, to the Zoning Board of Appeals.
- B. **Who May Appeal:** Appeals to the Zoning Board of Appeals maybe taken by any person aggrieved or by an officer, department, board, agency or bureau of the Township, on the matter of zoning decisions.
- C. **Fee for Appeal:** A fee prescribed by the Township Board shall be submitted to the Township Clerk at the time of filing the letter of appeals.
- D. **Effect of Appeal:** An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Township Zoning Board of Appeals, after the Notice or Appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by the Circuit Court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

#### **Section 26.10 - Hearing by the Zoning Board of Appeals**

When a request for appeals has been filed in proper form with the Zoning Board of Appeals, the Chairman shall immediately place the said request for appeal upon the calendar for hearing, and cause notice, stating the time, place and object of the hearing to be served personally or by mail pursuant to Article XVII, Section 27.03.



**Section 26.11 - Representation at Hearing**

During a hearing, any party or parties may appear in person or by an agent, including an attorney, engineer, architect, planner, landscape architect, realtor, or other representative designated by the fee or other owner(s) of the parcel in question.

**Section 26.12 - Board of Appeals Action**

The Zoning Board of Appeals shall decide upon all appeals within a reasonable time and reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as, in its opinion, ought to be made in the premise and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken. The Zoning Board of Appeals' decision of such appeals shall be in the form of a motion containing a full record of the findings and determination of the Zoning Board of Appeals affixed thereon. Any persons having an interest affected by such resolution shall have the right to appeal to the Circuit Court of Berrien County on questions of law and fact.

**Section 26.13 - Delay Required in Issuing Zoning Permits**

An aggrieved party to a zoning variance decision must appeal the decision within 21 days of the decision of the Zoning Board of Appeals to the Circuit Court of Berrien County. If the Township receives notice of an appeal within the 21-day period, no further action shall be taken by the Zoning Administrator until the matter has been heard and decided by the Circuit Court.

## **ARTICLE XXVII AMENDING THE ZONING ORDINANCE**

### **Section 27.01 - Changes and Amendments**

Only the Township Board may amend this Ordinance. Proposals for amendments or changes may be initiated by the Township Board on its own motion, by the Planning Commission, or by petition of one (1) or more owners of property to be affected by the proposed amendment.

### **Section 27.02 - Procedures**

The procedure for making amendments to this Ordinance shall be in accordance with the Michigan Zoning Enabling Act, P. A. 110 of 2007, as amended.

A petition prepared and submitted by any qualified applicant, the Township Board, or the Township Planning Commission, together with a completed and signed application and any required fees (if applicable), shall be filed with the Township Zoning Administrator. The petition shall be filed by the petitioner not less than twenty (20) days prior to regular monthly meeting of the Planning Commission. The Zoning Administrator shall review the application as to form and, when it is approved, transmit same to the Township Planning Commission for review and report. The Zoning Administrator shall, at the same time, establish a date for a public hearing on the petition for the Planning Commission and shall give proper notice of the hearing as provided in Public Act 110 of 2007, as amended, the Michigan Zoning Enabling Act. The Zoning Administrator shall also, for any proposed amendment to the Zoning Map, give notice thereof, and of the public hearing, to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all single and multiple-family dwellings within three hundred (300) feet as prescribed by law. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. The notice shall be made at least fifteen (15) days prior to the hearing.

Requirements of written notice to property owners shall not apply to comprehensive revisions to the Zoning Ordinance. Public hearing requirements shall also apply to amendments initiated by the Township Board or the Township Planning Commission.

### **Section 27.03 - Notice of Public Hearing and Content of Notice**

- A. The Zoning Administrator shall give Notice of Public Hearing in the following manner:
1. Publication in a newspaper of general circulation in the local unit of government not less than 15 days before the date of the public hearing.
  2. Notice sent by mail or personal delivery to the owners of property for which the matter of the public hearing is being held.
  3. Notice sent by mail to all persons to whom real property is assessed within 300 feet of the property subject to the public hearing matter.
  4. Notice by mail or personal delivery to all occupants of all structures within 300 feet of the property subject to the public hearing matter.
- B. The content of the public notice shall include:
1. A description of the nature of the request.
  2. The description of the property that is subject to the request, including the street address or addresses if more than one property and if no addresses are assigned another means of identification.
  3. The date, time and location of the hearing.

4. The time for submission of written comments and location where they will be accepted.
- C. Where the matter includes 10 or less property owners, notice by mail or in person shall be given pursuant to subparagraph A above. However, where the matter includes more than 10 properties individual notice as required in subsection A paragraphs 3 and 4 is not required pursuant to the Michigan Zoning Enabling Act.

#### **Section 27.04 - Information Required**

The applicant shall submit a detailed description of and the reasons for the requested zoning change to the Township Zoning Administrator. When the application involves a change in the Zoning District Map, the applicant shall submit the following information:

- A. The legal description of the property.
- B. A scaled map or plot of survey of the property, which correlates with the legal description, and an area map clearly showing the property's location with the certified signature of the owner affixed to the application for rezoning.
- C. The name and address of the petitioner.
- D. The applicant's interest in the property, and if the applicant is not the owner, the name and address of the owner with the signatures of all of the owners affixed to the petition requesting the zoning change.
- E. Date of filing with the Township.
- F. Signature(s) of the applicant(s) and all of the owner(s) certifying the accuracy of the information contained in the application.
- G. A complete description of the requested change and the reasons for wanting the change in zoning from that which the Zoning Ordinance text or Zoning District Map already provides.

#### **Section 27.05 - Steps in Making a Change**

- A. The petitioner submits application and fee to the Township Zoning Administrator.
- B. Clerk transmits application to Planning Commission, sets hearing date, and publishes notices of hearing.
- C. Planning Commission holds hearing, makes its decision stating its reasons in the official written record, and transmits the record of its decision as its recommendation to the County Planning Commission and to the Township Board.
- D. Township Board reviews Township Planning Commission's recommendation and those of the County Planning Commission and either enacts or rejects the proposed change as an Ordinance amendment, and, if approved, publishes the text of the change in a newspaper of general circulation in the Township.

#### **Section 27.06 - Findings and Conclusions Required**

In reviewing an application for a zoning change, the Planning Commission shall identify and evaluate all factors relevant to the requested change, and shall report its findings in full, along with its recommendations for disposition of the requested change, to the Township Board within sixty (60) days of the filing date of the application.

The facts to be considered by the Planning Commission shall include, but not be limited to, the following:

- A. Whether the requested zoning change is justified because of a change in conditions since the original ordinance was adopted or because of an error in the original ordinance.

- B. The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the application.
- C. The compatibility of the requested amendment with the Township or other government agencies which provide any services, facilities, and/or programs that might be required if the application were approved.
- D. Effect of approval of the application on adopted development, policies of the Township and other government units.
- E. All findings of fact, conclusions and reasons for approval or denial shall be made a part of the official published public records of the meetings of the Planning Commission and Township Board. A zoning amendment shall not be approved, unless all identified facts are affirmatively resolved that they are needed to preserve and protect the general health, safety, welfare, comfort and convenience of the citizens of the Township, or of other civil divisions, if applicable.

## ARTICLE XXVIII DEFINITIONS

### Section 28.01 - Construction of Language

For the purposes of this ordinance, certain terms or words used herein shall be interpreted as follows:

1. The word person includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
2. The present tense includes the future tense.
3. The word shall is mandatory, the word may is permissive.
4. The words used or occupied include the words intended, designed, or arranged to be used or to be occupied.
5. The word lot includes the words plot or parcel.
6. Terms not herein defined shall have the meaning customarily assigned to them.

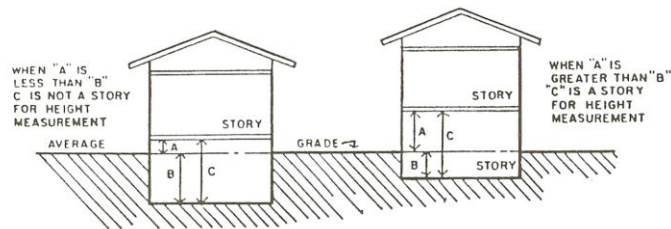
### Section 28.02 - Definitions

**Accessory Use of Structure.** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**Agriculture.** All contiguous neighboring or associated land operated as a single unit on which farming is carried on directly by the owner or by his agent or by a tenant farm that meets the definition of agriculture as set forth by the Michigan Zoning Enabling Act, P. A. 110 of 2007, as amended, the Farmland and Open Space Preservation Act, P.A. 116 of 1974, amended by P.A. 262 of 2000, including “substantially undeveloped land devoted to the production of plants and animals useful to humans, including forage and sod crops; grains; feed crops and field crops; dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.”

**Basement.** That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

**Buildable Area.** The portion of a lot remaining after required yards have been provided.



**Building Height.** The vertical distance measured from the established grade to the highest point of the roof's surface average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, height may be measured from the average ground level of the grade at the building wall.

**Building Inspector.** For the terms of this ordinance, the Building Inspector, or other person designated by the Township Board, shall serve as the Zoning Administrator for the administration of this ordinance. The term Building Inspector means the Zoning Administrator and the term Zoning Administrator means the Building Inspector.

**Cluster Development.** A form of residential development where the total number of residential dwelling units may, with approval of the Planning Commission be constructed on fifty (50) percent of the total developable land area (or less), provided that fifty (50) percent or more, of the total developable land area remain in open space protected from development through a permanent easement or other form of dedication acceptable to the Township Board.

**Common Open Space.** A parcel or parcels of land (including areas designated as common or limited common elements as recorded pursuant to the Michigan Condominium Act, P.A. 59 of 1978, as amended, or an area of water, or a combination of land and water within an area for Planned Unit Development and designed and intended for the use and enjoyment of residents or occupants of the Planned Unit Development. Common open space may contain such contemporary structures and improvements as are necessary and appropriate for the benefit and enjoyment of all residents of the Planned Unit Development, but shall not include areas reserved for the exclusive use or benefit of any individual tenant or owner; dedicated streets or other public right-of-way; vehicular drives, parking areas, loading and storage areas; and areas reserved for nonresidential related uses.

**Communication Tower.** A radio, telephone, cellular telephone, television relay structure or skeleton frame work, or monopole attached directly to the ground or other structure utilized for the transmission or reception of radio, telephone, cellular telephone, television, microwave, or any other form of telecommunication signals regulated by Ordinance 22. Included in this definition are accessory structures and/or enclosures.

Not included in this definition are citizen band radio facilities, short wave facilities, ham and amateur radio facilities, television reception antenna, satellite dishes, and government facilities which are subject to state and federal law or regulations that preempt municipal regulatory authority.

A communication tower shall not be included under the definition of essential services.

**Conservation Development.** See: "Cluster Development."

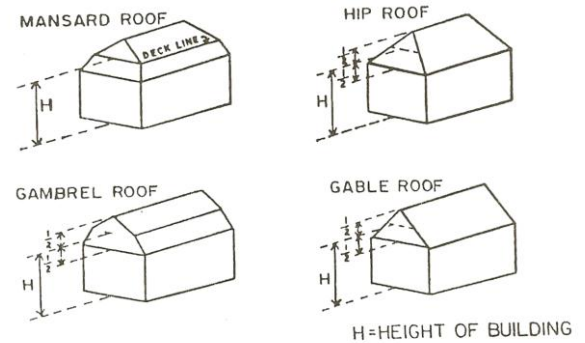
**Drive-In Restaurant or Refreshment Stand.** Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

**Dwelling, Mobile Home.** A detached residential dwelling unit designed to be used with or without a permanent foundation, as a dwelling unit, designed for and occupied by one (1) family only.

**Dwelling, Double Mobile Home.** Mobile home consisting of two sections combined horizontally at the site, while still retaining their individual chassis for possible future movement.

**Dwelling, Expandable Mobile Home.** Mobile home with one or more room sections that fold, collapse or telescope into the principal unit when being transported and which can be expanded at the site to provide additional living area.

**Dwelling, Modular Unit.** Factory-fabricated, transportable building unit placed upon a foundation designed to be used by itself or to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational, or industrial purposes.



**Dwelling, Sectional Home.** Dwelling made up of two or more modular units, factory fabricated, and transported to the home site where they are put on a foundation and joined to make a single house.

**Dwelling, Single-Family.** A structure containing not more than one dwelling unit (as defined by the Michigan Residential Construction Code) intended solely for use and occupancy by one (1) family. The unit shall also comply with the following standards (The following standards shall not apply to a mobile home located in a licensed mobile home park as provided for in Article VIII of this Ordinance except to the extent required by state or federal law or otherwise specifically required in the Ordinance of the Township pertaining to such parks.):

1. It complies with the minimum square footage requirements of this ordinance for the zone in which it is located.
2. It has a minimum width across any front, side or rear elevation of twenty-eight (28) feet and complies in all respects with the Township building code including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Township building code, then and in that event such federal or state standards or regulations shall apply.
3. It is firmly attached to a permanent foundation constructed on the site in accordance with the Township building code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission, and shall have a perimeter wall as required above
4. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, under carriage or chassis.
5. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the Berrien County Health Department.
6. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.
7. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof over-hang of not less than six (6) inches on all sides or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrative Official upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of fifteen (15) days from the receipt of notice of said Administrative Official's decision. Any determination of compatibility shall be based upon the standards set forth in this definition, as well as the character, design, and appearance of one or more residential dwellings located outside of mobile home parks within 2,000 feet of the subject dwelling where such area is developed to the extent of not less than 20% of the lots situated within said area; or, where said area is not so developed, by the character, design and

appearance of one or more residential dwellings located outside of mobile home parks throughout the Township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

8. The dwelling contains no additions or rooms or other areas which are not constructed with similar workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

9. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CRF 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load or strength requirements.

10. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Township building code provisions and requirements.

**Dwelling, Two-Family.** A detached residential building, other than a mobile home, containing two (2) dwelling units designed for occupancy by not more than two (2) families.

**Dwelling, Multiple-Family.** A residential building, other than a mobile home, designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

**Dwelling Unit.** A room or rooms connected together constituting a separate, independent housekeeping establishment for one (1) family occupancy, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom and sleeping facilities.

**Essential Services.** The phrase "essential services" means the erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles and other similar equipment, accessories in connection therewith, but not including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare.

**Farm.** The conduct of any agricultural activity or the raising of crops, livestock, small animals and the like as a source of income that is compliant with terms of this ordinance or as a nonconforming use provided such farming activities are compliant with Generally Accepted Agricultural Management Practices established by the Michigan Department of Agriculture.

**Family.** For the purposes of this ordinance, a family is:

1. One (1) or more persons, occupying a single dwelling unit, all related by blood, legal adoption, or marriage, and not more than three (3) other persons; or
2. Not more than three (3) unrelated persons.

Domestic servants employed on the premises may be housed on the premises without being counted as a family or part of a family.

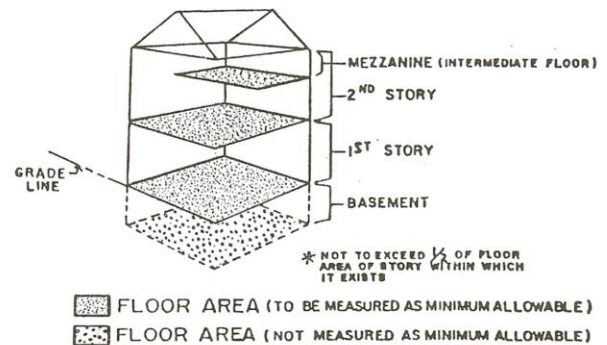


**Filling Station.** Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where other incidental services may be rendered and sales made.

Uses permissible at a filling station do not include major mechanical and body work, straightening body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations. A filling station is not a repair garage or a body shop.

**Finished Grade or Established Grade** - The ground elevation established for the purpose of regulating the number of stories and the height of buildings or structures. The finished or established grade shall be the level of the ground adjacent to the walls of the building (or structure) if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (or structure) measured at the center point of each face of the building (or structure).

**Floor Area.** For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of a Building shall be measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, or space used for off-street parking, breezeways, and enclosed and unenclosed porches, elevators, or stair bulkheads, common hall areas, and accessory structures.



**Floor Area, Usable** (For the purpose of computing parking). Is that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers and all that area devoted to employee work space. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, elevators or stair bulkheads, or for utilities or sanitary facilities, shall be excluded from this computation of usable floor area. Measurement of usable floor area shall be the same for the horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls.

**Home Occupation.** An occupation or profession carried on by an occupant of a dwelling unit as a secondary use which is incidental to the use of the dwelling for residential purposes.

**Loading Space, Off-Street.** Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled. A required off-street loading space is not to be included as an off-street parking space in computation of required off-street parking space.

**Lot.** For the purposes of this ordinance, a lot is a parcel of land of at least sufficient size exclusive of areas under water to meet minimum zoning requirements for use and area, and to provide such yards and other open spaces as are herein required. Such lot shall have the required uninterrupted frontage on a recorded or public street or private road and may consist of:

1. A single lot of record;
2. A portion of a lot of record;
3. A combination of complete lots of record;
4. A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

**Lot Frontage.** The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots all sides of a lot adjacent to streets shall be considered frontage.

**Lot Measurements.**

**Depth** of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

**Width** of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, provided, however, that in determining lot frontage on odd shaped lots if the lot abuts on the outside curve boundary of a curving street and as a result the side lot lines diverge toward the rear, the measurement of width may be taken at the front building line of the principal building; and provided further that if the lot abuts on an inside curve boundary of a curved street wherein the lot lines converge toward the rear, the measured width shall be taken at the rear line of the principal building or thirty (30) feet behind the front setback line, parallel to the street or street chord.

**Lot of Record.** A lot which is part of a subdivision recorded in the office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**Lot Types.** The adjoining diagram illustrates terminology used in this ordinance with reference to corner lots, interior lots and through lots:

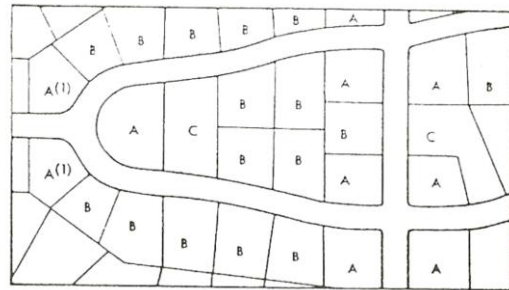
**A = corner lot**, defined as a lot located at the intersection of two (2) or more streets. A lot abutting on a curve street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees. See lots marked A (1) in the diagram.

**B = Interior lot**, defined as a lot other than a corner lot with only one (1) frontage on a street.

**C = Through lot**, defined as a lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.

**Mobile Home.** A vehicular, portable structure built in accordance with standards of the national Fire Protection Association No. 501B-1973, American National Standards Institute No. A119.1-1974, as indicated on the manufacturer's data plate as required by the Michigan Construction Code Commission Rule No. R. 408.31136, which is built on a chassis and designed to be used with or without a permanent foundation as a dwelling unit when connected to required utilities and which is, or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises for more than thirty consecutive days.

**Mobile Home Park.** Any parcel or tract of land licensed and registered under provisions of the State Mobile Home Park Act, being Act 243 of the Public Acts of 1959, as amended, and the provisions of the Mobile Home Commission Act, Act 419, P.A. 1976, as amended, under the control of any person, upon which 3 or more occupied mobile homes are harbored on a continual nonrecreational basis, or which is offered to the public for that purpose,



regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the harboring or occupancy of mobile homes.

**Mobile Home Subdivision.** A "subdivision" as defined by the state Subdivision Control Act, being Act 288 of the Public Acts of 1967, as amended, which has been expressly established for the sole purpose of selling lots on which mobile homes may be used and occupied for residential purposes, and which has been established in full compliance with all applicable provisions of the aforementioned Act and of all other applicable state, county, and township regulations.

**Parking Lot, Off-Street.** Three (3) or more adjoining parking spaces.

**Parking Space, Off-Street.** For the purposes of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designed that any automobile may be parked and unparked without moving another. Each parking space shall comprise a net area of at least ten (10) feet by twenty (20) feet.

For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the municipality.

**Parcel.** Contiguous real estate taxed as a single parcel on one side of a public road.

**Person.** Any individual or entity, including a firm, partnership, association, corporation, limited liability company, trustee, and their legal successors.

**Permit.** See Zoning Compliance Permit

**Planned Unit Development.** A parcel or tract of land initially under unified ownership or control, and which is or intended to be the site of two or more principal use buildings that is planned and constructed as a unified development where specific regulations of a given zoning district are modified through the approval of a site plan.

**Planned Unit Development - Traditional.** A Planned Unit Development where uses other than those allowed by the terms of the underlying zoning district regulation is permitted by decision of the Planning Commission.

**Planned Unit Development - Cluster Development.** A Planned Unit Development designed to comply with the requirements of P.A. 177 of 2000 that requires qualified Michigan Townships to offer an "open space preservation" pattern of residential land development.

**Planned Unit Development - Transfer of Development.** A Planned Unit Development designed to implement the provisions of P.A. 228 of 2003 that specifically allow a Michigan Township to approve a PUD that provides open space that is non contiguous with the rest of the property contained in the planned unit development.

**Public Utility.** Any person, firm, corporation, municipal department or board, duly authorized to furnish and furnishing under state or municipal regulations to the public: electricity, gas, steam, communications, telegraph, transportation, water, or sewer.

**Restaurant.** A building in which food is prepared and sold for consumption within the building, as opposed to a drive-in restaurant establishment, where food may be taken outside of the building for consumption either on or off the premises.

**Roadside Stand.** A structure used or intended to be used solely by the householder, owner, or tenant of the parcel on which such structure is located for the sale of fresh farm products, the majority of which are raised or produced on the parcel.

**Road, Private** - A non-public road approved by the Township serving at least two separately owned lots or parcels which is operated and maintained by the owners or occupants of the lots it serves on behalf of the public using the road. The road shall meet the specifications of Article XVIII, Section 18.12 of this Ordinance, constructed to County Road Commission standards and be subject to a maintenance agreement approved by the Township Board.

**Screening.** The visual obstruction of a site so that the operations or buildings cannot be viewed by neighboring properties and/or people traveling on adjacent roadways. Usually this is accomplished by natural vegetation growth supplemented by additional plantings and sometimes combined with natural and/or man-made topographic obstructions to prevent visual observation of the site.

**Sign.** Any device designed to inform, identify, or advertise to persons not on the premises on which the sign is located, provided however that the following shall not be included in the application of the regulations herein:

1. Signs not exceeding one (1) square foot in area and bearing only property numbers post box numbers, name of occupants of premises, or other identification of premises not having commercial connotations;
2. Flags and insignia of any government except when displayed in connection with commercial promotion;
3. Legal Notices, identification, informational, or directional signs erected or required by governmental bodies;
4. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.

**Sign, Abandoned.** A Sign shall be deemed abandoned if:

1. It does not display a well-maintained message for a consecutive 60-day period after Township notification,
2. The owner of the Sign cannot be located at the Owner's last known address, as reflected in the records of the Department; or
3. A structure designed to support a Sign no longer supports the Sign for a period of 60 consecutive days after Township notification.

**Sign, Directional.** A sign on private property without commercial message to give directions such as entrance, exit, or street numbers.

**Sign, Governmental.** A Sign authorized by this municipality, a governmental agency, a governmental regulation, the State of Michigan, or the Federal Government, for street direction, destination, hazardous condition, information, or traffic control purposes.

**Sign, Ground.** A Sign supported by one or more uprights, braces, pylons, or foundation elements located in or upon the ground and not attached to a building.

**Signs, Number and Surface Area.** For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to

form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Framed and structural members not bearing advertising matter shall not be included in computation of surface area.

**Sign, On-Site.** A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

**Sign, Off-Site.** A sign other than an on-site sign.

**Sign Owner.** A Person owning a Sign.

**Sign, Projecting.** A Sign affixed to any part of a building or structure which extends beyond the building or structure by more than twelve inches.

**Sign, Residential Neighborhood Identification.** A Sign at the entrance of a residential neighborhood identifying the neighborhood.

**Sign, Roof.** A Sign erected, constructed, or maintained upon, or which projects above, the roof line of a building.

**Sign, Special Event.** A Sign for events such as grand openings, vehicle shows, displays, craft shows, benefits, fund-raisers, festivals, fruit harvesting, and other limited term events.

**Sign, Wall.** A Sign attached to, painted upon, placed against, or supported by the exterior surface of any building.

**Special Land Use.** A Special Land Use is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as a Special Land Use, if specific provision for such Special Land Use is made in this ordinance.

**Story.** Is that part of a building included between the surface of one (1) floor and the surface of the next floor, or if no floor above, then the ceiling next above. A story, thus defined, shall not be counted as a story when more than fifty (50) percent by cubic content is below the height level of the adjoining ground.

**Story, Half.** An uppermost story lying under a sloping roof. The usable floor area of which does not exceed seventy-five (75) percent of the floor area of the story immediately below it and not used or designed or arranged or intended to be used in whole or in part as an independent housekeeping unit or dwelling.

**Street.** A public thoroughfare for vehicular traffic, which generally includes everything found within the right-of-way.

**Street Line.** The right-of-way line of a street or easement for ingress and egress.

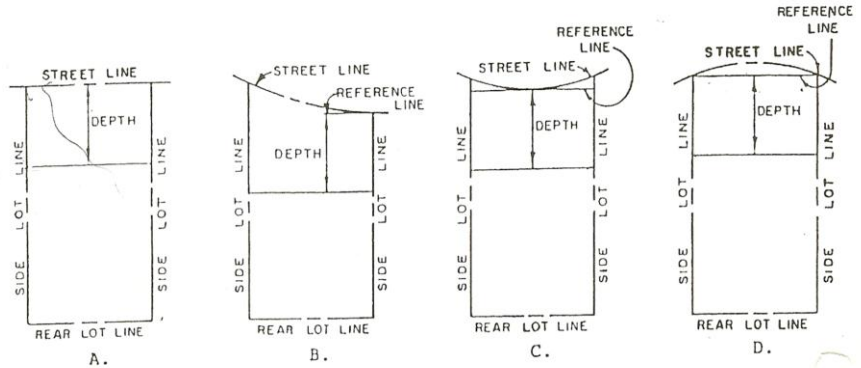
**Township.** Sodus Township.

**Travel Trailer.** A structure that is intended to be transported over the streets and highways either as a motor vehicle (motor home) or attached to or hauled by a motor vehicle and is designed for temporary use as sleeping quarters but does not satisfy the definitional criteria of a mobile home.

**Variance.** A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary practical difficulty or undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

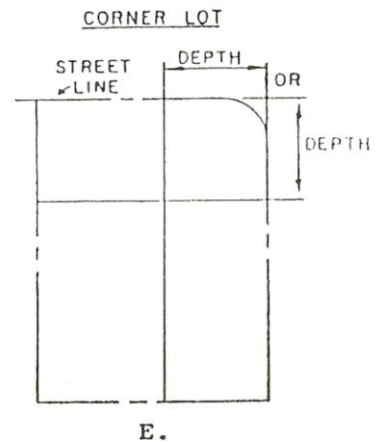
**Yard.** A required open space, between a lot line and a structure or group of structures, other than a court, unoccupied and unobstructed by any structure or portion of a structure, except as provided within this ordinance, provided however that fences, walls, poles, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

**Yard, Front.** A yard extending between side lot lines across the front of a lot adjoining a public street; or, in the case of water front lots, which shall be considered as through lots, a public street on one frontage and the water front on the other frontage.



In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Zoning Administrator may waive the requirement for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

Every corner lot in a residential district having on its side street an abutting interior lot shall have minimum setbacks from both streets equal to the minimum required front setback of the district in which it is located; provided, however, that this does not reduce the buildable width of any lot of record to less than 25 feet. On corner lots where a rear lot line abuts a side lot line on the adjoining lot, accessory buildings on the corner lot shall have a rear yard setback from the rear lot line a distance equal to the side yard setback required for the district.



Depth of required front yards shall generally be measured from the innermost point of the street line (right-of-way line) inward or a distance of the required front yard depth, as in diagrams A., B., C. and D. below.

In the case of rounded property corners at street intersections, reference points for measurements shall be placed where side lot lines would have met the street line if the corner were not rounded, as in diagram E. below. The front and rear lines of the front yard shall be parallel.

**Yard, Depth.** Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with the inner edge parallel with the rear lot line.

**Yard, Side.** A yard extending from the rear line of the required front yard to the front line of the required rear yard. In the case of through lots, side yards shall extend between the rear lines of the required front yards.

**Yard, Rear.** The yard extending across the rear of a lot between side lot lines.

**Yard, Width.** Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with the inner edge parallel with the side lot line.

**Zoning Administrator.** See Building Official.

**Zoning Compliance Permit.** A permit for commencing construction issued by the Zoning Administrator in accordance with a plan, including an approved site plan, for construction that complies with all the provisions of this Zoning Ordinance.

**ARTICLE XXIX  
SEVERABILITY**

**Section 29.01 - Severance Clause**

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.



**ARTICLE XXX**  
**ADOPTION AND EFFECTIVE DATE OF ORDINANCE**

**Section 30.01 - Effective Date of Ordinance**

This Ordinance shall become effective seven (7) days after publication of its adoption in a newspaper of general circulation in the Township following passage by the Township Board of the Township of Sodus, Berrien County, Michigan.

Made and passed by the Township Board of the Township of Sodus, Berrien Buren County, Michigan on this twenty-second day of July, 2008

1. Date of Publication of Notice of Public Hearing: May 19, 2008.
2. Date of Public Hearing by Planning Commission: June 9, 2008.
3. Date of Review by County Planning Commission: July 8, 2008.
4. Date of Adoption by Township Board: July 22, 2008.
5. Date of Publication of Notice of Adoption: July 29, 2008.
6. Date Ordinance Shall Take Effect: August 5, 2008.

**Attest:**

\_\_\_\_\_  
Michele Bennett  
Township Supervisor

\_\_\_\_\_  
Virginia Palis  
Township Clerk

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Ordinance Number 3 - Elimination of Blight and Blighting Factors

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# SODUS TOWNSHIP

## ORDINANCE NUMBER 3

### ELIMINATION OF BLIGHT AND BLIGHTING FACTORS

An Ordinance to prevent, reduce or eliminate blight, blighting factors or causes of blight within Sodus Township, Berrien County, Michigan; to provide for the enforcement hereof; and to provide penalties for the violation hereof, pursuant to the enacting authority therefore provided by Act 344 of the Public Acts of 1945 as amended.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN ORDAINS:

#### Section 1. Definitions –

(a) Disabled Motor Vehicle. A disabled motor vehicle shall mean any vehicle which is incapable of being self propelled upon public streets, or which does not meet the requirements for operation upon the public streets, including a current license.

(b) Junk. The term “junk” shall include, without limitations, parts, of machinery or motor vehicles, broken and unusable furniture, stoves, refrigerators or other appliances, remnants of wood, metal or any other cast-off material of any kind, whether or not the same could be put to any reasonable use, including all forms of trash, rubbish, or debris not otherwise classified herein.

(c) Blighted Structure. The term “blighted structure” shall include without limitation any dwelling, garage, or outbuilding, or any factory, shop, store, office building, warehouse or any other structure or part of a structure which, because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as dwelling, nor useful for the purpose for which it may have been intended, or which is in violation of the Township building code, or which has been declared a fire hazard by the Township Fire chief, or which has been condemned by the Township, County, or State health officials.

(d) Building Materials. The term “building materials” shall include, without limitation, lumber, brick, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, or cement, nails, screws, or any other materials used in constructing any structure.

(e) Person. The term “person” shall include all natural persons, firms, co-partnerships, corporations, and all associations of natural persons incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this ordinance, whether as owner, occupant, lessee, provided, be equally liable as principals.

Section 2. It is hereby determined that the storage or accumulation of junk, disabled motor vehicles, building materials, and the maintenance of blighted structures upon any private property within the Township of Sodus tends to result in blighted and deteriorated neighborhoods, spread of vermin and disease, the increase of criminal activity, and therefore is contrary to the public peace, health, safety, and general welfare of the community.

#### Section 3. Disabled Motor Vehicles –

(a) Disabled motor vehicles shall not be permitted in the rights of way of the streets, alleys, or highways within the Township; provided, however, that this shall not apply to towing or similar transporting of such vehicles; and provided further, that a reasonable time (not to exceed 48 hours from the time of disability) shall be permitted for the removal or servicing of a disabled vehicle in an emergency caused by accident or sudden breakdown of the vehicle.

(b) Disabled motor vehicles shall not be permitted in a front yard as defined by the zoning ordinance of the Township; provided however, that a reasonable time (not to exceed 48 hours from the time of disability) shall be permitted for the removal or servicing of a disabled vehicle in any emergency caused by accident or sudden breakdown of the vehicle.

(c) One disabled motor vehicle may be permitted in a side or rear yard of residential, commercial, or industrial lot; provided, that such vehicle is not located in any open space required by the zoning laws. Service and repair work may be performed on such vehicle and incidental thereto parts, tools, and equipment may be stored and used. Nothing contained herein shall be construed as authorizing the disassembling, teardown, or scrapping of a motor vehicle, or to permit one motor vehicle to be scavenged or stripped for parts for use on another motor vehicle. Provided, however, that a disabled vehicle shall not be permitted to remain outside of a building for a period in excess of thirty (30) days on any lot used for residential purposes or on that portion of any lot within twenty (20) feet of an abutting lot used for residential purposes.

(d) Storage, service, and repair of a disabled motor vehicle which is conducted entirely within the confines of an accessory garage shall be permitted; provided, that such vehicle is the property of the owner or occupier of the lot and that such use is authorized by other ordinances of the Township.

(e) Where permitted; storage, repair and servicing of disabled motor vehicles not authorized herein, and the tearing down, stripping or junking of motor vehicles shall be permitted, only where and when such use is specifically authorized, permitted or licensed under other ordinances of the Township, and in accordance therewith.

Section 4. Accumulation or Storage of Junk – It shall be unlawful for any person to store, or to permit the storage or accumulation of junk, trash, rubbish or other debris on any property in the Township without a landfill permit except for the following purposes:

(a) Domestic Junk or refuse stored in a manner as not to create a nuisance for a period not to exceed fifteen (15) days.

(b) Junk on the premises of a property zoned, licensed or approved junk dealer, junk buyer, dealer in used auto parts, dealer in second hand goods or junk.

Section 5. Maintenance of Blighted structures – It shall be unlawful for any person to keep or maintain any blighted or vacant structure, dwelling, garage, out building, factory, shop, store, or warehouse except in the following circumstances:

(a) In the case of blighted or vacant structures as defined here which have not been determined a fire hazard by the Township Fire Chief or condemned by a public health official, the same may be kept securely locked, boarded up and otherwise protected to prevent entrance there by unauthorized persons provided such securing and boarding up is done in accordance with the Sodus Township building code.

(b) Blighted or vacant structures which are in the course of construction in accordance with a valid building permit issued by the Township of Sodus provided that the construction is completed within a reasonable time.

Section 6. Storage and Accumulation of Building Materials – It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property except in a completely enclosed building or except where such building materials are part of the stock in trade or business located on said property or except when such building materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the Township of Sodus, and unless such construction is completed within a reasonable time.

Section 7. Enforcement – It shall be the duty of the duly authorized Police department of Sodus Township to enforce this ordinance; provided however, the Chief Building Inspector, zoning enforcement officer, Fire Chief, health officer, and supervisor of the Township shall assist and cooperate in such enforcement; and further provided that the person determined to be in violation of this ordinance shall be given 48 hours prior notice, served personally upon him or posted in a conspicuous place upon the property wherein the violation occurs, which notice shall set forth in detail the nature and extent of the violation and further notifying the said person that enforcement action pursuant to the penal provisions of this ordinance will be taken if said violation is not corrected within the 48 hour time period.

Section 8. Penalty – Any person violating any of the provisions of this ordinance shall be liable to a fine of not more than Five Hundred (\$500.00) Dollars or imprisonment in the county jail for not more than Ninety (90) days or both such fine and imprisonment. Each day that a violation of this ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this section provided no person shall be imprisoned for a single but continuing violation of this ordinance for a period of longer than Ninety (90) days.

Section 9. Should any section, clause or provision of this ordinance be declared by any court to be invalid, the same shall not affect the validity of the remaining portions of such section of this ordinance or any part thereof other than the part so declared invalid.

Section 10. This ordinance shall be effective Thirty (30) days after passage, and publishing.

THE FOLLOWING AMENDMENT TO SODUS TOWNSHIP ORDINANCE NUMBER 3 WAS ADOPTED BY THE  
SODUS TOWNSHIP BOARD  
JUNE 26, 1990

After Section 8, it is suggested that a Section 8A & 8B be added to the ordinance, which should read as follows:

“In addition to the imposition of the foregoing fines and penalties the violation of the provisions of this ordinance is deemed to be a nuisance and any person, firm or corporation who refuses or neglects to comply with an order of the Township Board, the Township Supervisor, Township Code enforcement Officer, Township Building and Zoning Inspector issued under this ordinance, then said board may cause said nuisance to be removed from the premises, impounded, destroyed, and/or sold, and the cost thereof assessed against the owner or occupant of the premises upon which the same is located. If the owner or occupant of such premises shall refuse upon demand to pay such expenses so incurred, such sum shall be assessed against the real estate involved and shall be collected and treated in the same manner as are taxes assessed under the general laws of the “State of Michigan”

And then subsection B:

“In the event of a sale of any such material or equipment by the Township, the proceeds from such sale shall be first used to reimburse the Township for the costs incurred therein and the balance, if any, shall be returned to the owner or occupant of the real estate involved as the case may be”

Adopted: June 26, 1990

Effective: July 26, 1990

**LAND DIVISION ORDINANCE  
OF  
TOWNSHIP OF SODUS  
COUNTY OF BERRIEN, STATE OF MICHIGAN**

**ORDINANCE NO: 20**

*LAND DIVISION ORDINANCE*

An Ordinance to regulate partitioning 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, by the township existing General Zoning 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.

TOWNSHIP OF SODUS

BERRIEN COUNTY, MICHIGAN,

ORDIANS,

SECTION I

TITLE

This ordinance shall be known and cited as the **Sodus Township Land Division Ordinance**.

SECTION II

PURPOSE

The purpose of this ordinance is to carry out the provisions of the State Land Division Act (1) 967 PA 288, as amended, formerly 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 township by establishing reasonable standards for prior review and approval of land divisions within the township.

SECTION III

DEFINITIONS

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

- A. "Applicant" a natural person, firm, association, partnership, corporation, or combination of any of them that hold an ownership interest in land whether recorded or not.
- B. "Divided or Division" the partitioning or splitting of a parcel or tract of land by the proprietor or therefore 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 the requirements of Sections 108 and 109 of the State Land Division Act.

- C. "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 parcel 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 access owned by the owner of the parcel that can provide such access.
- D. "Forty acres of 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.
- E. "Governing body" the legislative body of a township, or board of a township.

#### SECTION IV

##### PRIOR APPROVAL FOR LAND DIVISION APPROVAL

Land in Sodus Township SHALL NOT BE DIVIDED without the prior review and approval of **person (s) or body designated by the governing body**, In accordance with this ordinance and the Sate Land Division Act; provided that the following shall be exempted from this requirement:

- A. An exempt split as defined in this Ordinance and the State Land Division Act.

#### SECTION V

##### APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all the following with the Sodus Township Assessor, at the Sodus Township Hall during the normal business hours before making any division either by deed, land contract, lease for more than one year, or for building development:

- A. Completed application on the official Sodus Township Land Division Application form and with such additional information as may be required.
- B. Proof of free ownership of the land proposed to be divided.
- C. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.21 1) by a land surveyor licensed by the State of Michigan, and showing the dimensions and the legal descriptions of the existing parcel and the parcels proposed to be created by the division (s), the location of all existing structures and other land improvements, and the accessibility of the parcel for vehicular traffic and utilities from existing public roads.

The applicants option of providing a **preliminary** drawing will waive the 45 day statutory requirements for a decision on the application until such survey map and legal description are filed with the designated, person(s) or body, it may recommend that the Sodus Township Board waive the survey map requirements under certain circumstances such as in the case of farmland for farming purposes and **not** for development purposes. Whereas the foregoing **preliminary** parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the underdeveloped character of the territory within which the proposed division(s) is located. An accurate legal description of all the proposed divisions, however, shall at all times be required.

If a certified survey map has not been provided the applicant shall submit a **preliminary** drawing or map to scale of not less than that provided for on the application form, include an accurate legal description of each proposed division, showing the boundary line dimensions and accessibility of each division from the existing or proposed public roads for automobile traffic and public utilities, for **preliminary** review, approval and /or denial by the of the designated, person(s) or body for his or her stamped approval. The applicant must then take the stamped approval preliminary map to the assessor for the application process to be started.



- D. Proof that all standards of the State Land Division Act and this Ordinance have been met. (See Check list accompanying this ordinance)
- E. The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.
- F. Proof that all due and payable taxes or installments of special assessment pertaining to the land proposed to be divided are all paid in full.
- G. If a transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- H. Unless a division creates a parcel which is acknowledged and declared to be “not buildable” under Section VIII of the ordinance, all divisions shall result in buildable parcels containing sufficient “buildable” area outside of the nonbuildable wetlands, flood plains, and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, etc.
- I. The fee as may from time to time be established by resolution of the Sodus Township Board for land division review pursuant to this ordinance to cover the cost of review of the application and administration of this Ordinance and State Land Division Act.

## SECTION VI

### PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

- A. Upon receipt of a completed land division application package, the Assessor of Sodus Township shall forthwith submit the same to the designated, person(s) or body, for processing. After review, it shall approve, approve with reasonable conditions to assure compliance with applicable ordinances, or disapprove, within 45 days, and shall promptly notify the applicant of the decision and the reason for any denial. If the application package does not conform to this Ordinance and/or the State Land Division Act, the Assessor, or the designated, person(s) or body, shall return the same to the applicant for completion and refile in accordance with this Ordinance and the State Land Division Act.
- B. Any person or entity aggrieved by the decision of the designated, person(s) or body, may within 30 days of said decision appeal to the Sodus Township Zoning Board of Appeals. Sodus Township Zoning Board of Appeals shall consider the resolve such appeal by a majority vote of said Board at its next meeting 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.
- C. A decision approving a land division is effective for 6 Mo. From the final approval by the last Board to review the land split, after which it shall be considered revoked, unless within such period the document, deed(s), land contract(s), or lease(s) is recorded with Berrien County Register of Deeds office, and a copy of the approved application is filed with the Berrien County Planning Department (Land Description Office) and the Sodus Township assessor.
- D. The Sodus Township Assessor or designee shall maintain a record of all land division applicants either approved or denied.

## SECTION VII

### STANDARDS FOR APPROVAL OF LAND DIVISIONS

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

A. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the **Sodus Township Zoning Ordinance**, including but not limited to, minimum lot (parcel) road frontage (width), minimum lot (parcel) area, minimum lot width to depth ratio, and minimum setbacks for existing building/structures.

B. The proposed land division(s) comply with all the requirements of the State Land Division Act and this Ordinance.

C. All parcels created and remaining have existing adequate accessibility, or an area available therefore to a public road for public utilities and emergency and other vehicles not less than the requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this Ordinance. In determining adequacy of accessibility, the ordinance standards applicable under the Sodus Township Zoning Ordinance and Berrien County Road Commission Ordinance shall be a minimum standard.

D. The ratio of depth to width of any parcel created by the division does not exceed a four (depth) to one (frontage) ratio exclusive of access roads, easements or nonbuildable parcels created under Section VIII of this Ordinance and parcels to contiguous parcels that result in all involved parcels complying with said ratio, if 10 acres or less. The permissible depth of a parcel created by 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 permissible minimum width (frontage) shall be as defined in the **Sodus Township Zoning Ordinance**.

E. Where accessibility is to be provided by a proposed new dedicated public road, proof that Berrien County Road Commission or Michigan Department of Transportation has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.

F. Where public water and/or sewer service is not available, at the time application for building permit is issued proof that an approved well location and approved area for a septic system and drain field(s) is available.

G. Right to Farm Act, all deeds for parcels of unplatted land within the State of Michigan must now contain the following statement, regardless of whether the parcel is located in a downtown metropolitan area or in a remote region of the Upper Peninsula:

“This property may be located within a vicinity of farmland or a farm operation. generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan right to farm act”.

## SECTION VIII

### ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISION

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

A. Where the applicant executes the records an affidavit or deed restriction with the Berrien County Register of Deeds, in a form acceptable to Sodus Township, designating the parcel as a “not buildable”. Any such parcel shall also be designated as “not buildable” in the township records, and shall not thereafter be the subject of a request to the Sodus Township Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height.

B. Where, in circumstances not covered by paragraph A above, the Zoning Board of Appeals has, previous to this Ordinance, granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.

C. Where the proposed land division involves only minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance (**Sodus Township Zoning Ordinance**, or the State Land Division Act).

D. Where after due process, the Sodus Township Zoning Board of Appeals has granted a Variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.

## SECTION IX

### CONSEQUENCES OF NON COMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENTS

Any parcel created in noncompliance with this ordinance shall not be eligible for any building permits, or zoning approvals, such as special land use 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 Section X of this Ordinance, and as may otherwise be provided by law.

## SECTION X

### PENALTIES AND ENFORCEMENT

Any person who willfully violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$1000.00 or by imprisonment in the County Jail for not to exceed 90 days or by both such fine and imprisonment.

Any person who willfully violates any of the provisions of this ordinance shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

## SECTION XI

### SEVERABILITY

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

## SECTION XII

### REPEAL

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, except that this ordinance shall not be construed to repeal any provision in the **Sodus Township Zoning Ordinance**, Sodus Township Building Code, or State Land Division Act.

## SECTION XIII

### EFFECTIVE DATE

This ordinance shall take effect 30 days following its publication after adoption.

Adopted this Ninth day of December 1997.

TOWNSHIP OF SODUS

ADOPTED: DECEMBER 9, 1997

EFFECTIVE: JANUARY 16, 1998

**Sodus Township  
Communication Tower Ordinance  
Ordinance Number 22**

An Ordinance to provide for the application, review, construction and maintenance of telecommunication towers for the health, safety and welfare of the residents of Sodus Township; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

This Ordinance shall be known as the “COMMUNICATION TOWER ORDINANCE”

Section 1.01 PURPOSE

The purpose of this ordinance is to provide for the application, siting, regulation, construction, and operation of towers, structures and related facilities that utilize the radio frequency spectrum for the purpose of transmitting, rebroadcasting or receiving radio signals.

Section 1.02 DEFINITIONS

For the purpose of this ordinance certain terms and words used herein shall have the following meanings:

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

Collocation shall mean the location of two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, in an effort to reduce the overall number of structures required to support wireless communication antennas within the community.

Feasibility of collocation. Collocation shall be deemed to be feasible for the purpose of this section where all of the following are met:

The wireless communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.

The site, on which collocation is being considered, taking into consideration reasonable modification of a facility, is able to provide structural support.

The collocation being considered is technologically reasonable, e.g.; the collocation will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure antennas. And the like.

The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the Township, taking into consideration the several standards contained in Section 1.05 of this ordinance.

Section 1.03 APPLICATION FOR SPECIAL LAND USE PERMIT TO CONSTRUCT COMMUNICATION TOWERS

A. Special Land Use Requirements:

1. Permit

No telecommunications tower shall be erected in the Township without first having acquired a permit as described in this section.

2. Application

The owner of record shall submit an application following the steps listed in Zoning Ordinance Section 11.02 "Application Procedures"

3. Contents

In addition to the Information required on the application form, an application submitted under this ordinance shall include:

- a.. A statement describing the efforts by the applicant utilized to determine the feasibility of collocation. If collocation is unavailable or not practical the applicant shall provide a statement that identifies the facts, characteristics and /or the circumstances which renders collocation unavailable or technically not practical for the coverage area and capacity needs. A certified Michigan Professional Engineer must verify such document.
- b. A site plan prepared in accordance with the requirements of Zoning Ordinance Section 10 "Site Plan Requirements"
- c. An Engineering drawing of the tower design signed by a Certified Michigan Structural or Professional Engineer verifying that the tower design meets all wind load and soil bearing requirements for the intended site.
- d. A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to insure long term, continuous maintenance to a reasonable prudent standard.
- e. The name, address and phone number of the person to contact for engineering and other notice purposes. The applicant shall continuously update this information during all times the facility is on the premises.
- f. A list of all property owners within a one-half mile radius of the proposed site.
- g. A map showing the locations, name and address of the owner (s) and/or operators of any other telecommunication tower within the Township and any other tower within a five-mile (5) radius of the proposed site, identifying any other collocation utilized on each tower.

SECTION 1.04 PUBLIC HEARING REQUIREMENTS:

A. Public Hearing

1. Providing all of the above requirements have been satisfied, the Township Planning Commission shall hold a hearing on the site plan and special land use request as specified in Zoning Ordinance 11.02 F. Notice of the hearing shall be given by mail or personal delivery to the owners of property for which Special land Use Permit approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. Notice of the public hearing also to be published in a newspaper of general distribution in Sodus Township. Notice to be published no more than 15 nor less than 7 days prior to the hearing.

## SECTION 1.05 STANDARDS FOR APPROVAL OF SPECIAL LAND USE PERMIT TO CONSTRUCT COMMUNICATION TOWERS

### A. Qualifying Conditions

1. The following site and develop requirements shall apply:
  - a. The proposed site must meet all front, side and rear yard setback requirements where not specifically addressed herein and any minimum road requirements that may be established.
  - b. The use of guy wires prohibited. All towers shall be self-supporting.
  - c. The base of the tower shall be fenced with a six foot (6) high fence.
  - d. Telecommunication towers shall only be located in the following districts, **R-AG**, Residential Agricultural; **C**, Commercial; **M-1**, Industrial; **M-2**, Industrial Park; **M-A**, Industrial Agricultural; **AG**, Agricultural.
  - e. Any such site that is approved shall maintain a separate access road or driveway. No other use shall be served by said driveway or road.

## SECTION 1.06 SPECIAL PERFORMANCE STANDARDS

- A. The tower must be set back from all property lines a distance equal to its height, **unless** engineering plans and specifications have been verified by a Certified Michigan Structural or Professional Engineer that the structural integrity of the tower will withstand high winds and impacts, and the likelihood of a tower failure is minimal. The applicant shall bear all costs associated with the engineering review.
1. Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than thirty feet (30').
  2. Accessory structures shall not exceed six hundred (600) square feet of gross building area.
  3. All buffer yard requirements within the Zoning Ordinance shall be otherwise satisfied.
  4. The division of property for the purpose of locating a wireless communication facility is prohibited unless all Zoning Ordinance requirements and conditions are met.
  5. A registered structural engineer licensed in the State of Michigan shall certify the tower construction plans.
  6. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and the installation is in compliance with all applicable codes.
  7. All towers must meet the standards of the Federal aviation Administration and the Federal Communications Commission.
  8. Communication towers in excess of one hundred (100') feet in height above grade level shall be prohibited within a two (2) mile radius of a public airport or one-half (1/2) mile radius of a heliport.
  9. No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, on or upon any required setback area for the district in which the antenna or tower is located. In no case shall a tower or antenna be located within thirty feet (30') feet of a property line. The applicant may apply to the Zoning Board of Appeals for a setback variance.

10. Metal towers shall be constructed of, or treated with, corrosive-resistant material.
11. Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
12. Towers with antennas shall be designed to withstand a uniform wind loading as prescribed in the building code.
13. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8') feet above the ground
14. Towers shall be located and designed so that they do not interfere with telephone, radio, and television reception in nearby residential areas.
15. Towers shall be located so as to allow maintenance vehicles to maneuver on the property.
16. Minimum spacing between communication tower locations shall be one (1) mile to prevent a concentration of towers in the Township.
17. Height of the tower shall not exceed three hundred (300) feet from grade.
18. Towers shall be artificially lighted only to the extent required by the FAA, or by the Township Board whichever is greater. Where possible, considering all site restrictions, any such lighting shall not unduly interfere with the peace and repose of the surrounding land uses, whether or not in the same zoning district.
19. Existing on-site vegetation shall be preserved to the maximum extent practicable.
20. No advertisement or identification of any kind, except required for emergency purposes, shall be displayed or erected on the property.
21. The antenna shall be painted to match the exterior treatment of the tower. The paint scheme shall minimize the off-site visibility of the antenna and tower.
22. Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive standards are adopted in the future, the antenna shall be made to conform to said regulations within in 30 days or the Special Land Use approval will be subject to revocation by the Township Board. All costs for testing and verification of compliance shall be borne by the operator of the antenna.
23. There shall be no employees located on the site. Occasional or temporary repair service activities are excluded from restriction.
24. Where the property adjoins any residentially zoned property or land use, the developer shall plant two (2) alternating rows of evergreen trees having a minimum height at time of planting of five feet (5') on ten foot (10') centers along the entire perimeter of the tower and related structure. The applicant shall maintain these trees, and dead trees shall be replaced during the following planting season. Any necessary replacements shall also be a minimum height of five feet (5') at the time of replacement. The applicant shall maintain these trees perpetually.
25. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.



26. The site and tower shall be maintained in compliance with all applicable laws, codes and ordinances. The Township may require landscaping or other improvements to the site so as to minimize the aesthetic, or other damage the tower causes to the surrounding properties.

B. LAND DIVISION

Subject to the Sodus Township Land Division Ordinance, the division of property for locating a wireless communication facility is prohibited unless all zoning requirements are met.

SECTION 1.07 PENALTIES AND ENFORCEMENT

A. ABANDONMENT and PENALTIES for VIOLATION

The property owner shall remove the tower within six months of being abandoned. If the applicant fails to do so within six months of abandonment, special use shall be considered revoked. The Township may, at its sole discretion, enter the property and cause the demolition of the tower, antennae, and any necessary structure (s). Prior to demolition, the Township shall provide written notice of demolition via first class mail to the applicant not less than thirty days (30) prior to demolition. All costs, including attorney fees, associated with demolition shall be placed on the tax bill of the property as a special assessment.

Any person, firm or corporation who violates any provision of this ordinance shall be guilty of a misdemeanor punishable by imprisonment of up to ninety (90) days and a fine of up to \$ 500.00 or both. Each day a violation exists shall be a separate offense.

Adopted: June 12, 2001

Effective: July 12, 2001

PRIVATE ROAD ORDINANCE  
OF  
TOWNSHIP OF SODUS  
COUNTY OF BERRIEN, STATE OF MICHIGAN

ORDINANCE NUMBER 23

An Ordinance to protect the health, safety, and general welfare of the inhabitants of Sodus Township.

**SECTION 1.01**

PURPOSE

The Township has hereby determined that as large tracts of land are divided, sold, transferred, and developed, private access roads are being created to provide access to the newly divided properties, not subject to regulation under the Michigan Subdivision Act of 1967 and other State regulations. The Township determines it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of Private Roads to assure:

- A. THAT Private Roads are designed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.
- B. THAT said roads are constructed of suitable materials to ensure minimal maintenance and safe passage.
- C. THAT Private Roads will be constructed so as to protect against or minimize soil erosion and prevent damage to lakes, streams, wetlands, and natural environment of the Township.

**SECTION 1.02**

DEFINITIONS

For purposes of this section, the following terms are defined as follows:

- A. An "existing Private Road" is a Private Road or a Private Road System, which is used to provide access to no less than two (2) or more than five (5) existing lots, or dwelling units as of the effective date of this Ordinance.
- B. An "existing lot" is a lot which, as of the effective date of this Section, meets all Township of Sodus regulations for the district in which it is located, and meets at least one of the following conditions.
  - (1) The lot consists of a parcel described by metes and bounds for which a deed has been recorded with the Berrien County Register of Deeds, or of a parcel described by a land contract or memorandum of land contract which has been recorded by the Berrien County Register of Deeds;
  - (2) The lot has been assigned its own permanent parcel number by the Berrien County Property Description and Mapping Department and is individually assessed and taxed on that basis.
- C. An "existing dwelling unit" is a single family home for which the Township as of the effective date of this Ordinance has issued a building permit.

**SECTION 1.03**

GENERAL REQUIREMENTS AND APPLICATION TO EXISTING PRIVATE ROADS

A. After the effective date of this Ordinance, a Private Road shall not be constructed, extended, relocated, or rebuilt, except in accordance with the minimum standards and requirements of this Ordinance. If an additional lot is proposed adjacent to an existing Private Road, the road shall meet the requirements of Section 1.04E and a Private Road Permit must be obtained as per Section 1.06. If an existing Private Road is proposed to be extended, then the existing portion shall be improved to meet the standards of this Ordinance.

B. Private Roads are permitted in the following districts.

- R-AG, Residential
- R-1, Single Family Residential
- R-3, Multi-Family Residential
- C, Commercial
- M-I, Industrial
- M-2, Industrial Park
- M-A, Industrial Agriculture
- AG, Agricultural

C. The provisions of this ordinance shall not apply to access roads internal to any individual lot or parcel of land that has direct public street frontage access. Is under the control of one person, firm, corporation, or association, provided that the access road does not provide access to any abutting lot or parcel of land. Examples of access roads that may be exempted from the provisions of this ordinance include those serving apartment complexes, mobile home parks, nursing homes, hospitals, factories, schools and shopping centers which are otherwise subject to site plan review and approval under the provisions of the Sodus Township Zoning Ordinance.

D. Private Roads shall not interconnect with the public street network in a manner that will preclude the extension of public streets if it is necessary to further the logical, orderly, and efficient development of the overall public street network. In making such determination, the Planning Commission shall consider the circulation pattern and traffic volumes on nearby public streets, and existing and proposed land use in the general area, the recommendations contained within the Sodus Township Master Plan and Street plan, if any and if applicable, the street and highway plans of the Berrien County Road Commission and Michigan Department of Transportation.

E. Where Private Roads in existence prior to the effective date of this ordinance are to be extended and serving five (5) lots or less, the existing road may be extended, provided that the entire Private Road is improved to the construction specifications of section 1.04 (E) of this ordinance.

## SECTION 1.04

### MINIMUM STANDARDS FOR PRIVATE ROADS

A. A Private Road shall be located within a Private Road Easement. Such easement shall not be less than sixty-six (66) feet in width for residential, eighty (80) feet in width for Industrial & Commercial. If all other requirements are met, the easement can be part of the road frontage of a lot. At any dead end of such easement, the easement shall widen such that there is a minimum radius of sixty-seven (67) feet Residential, or eighty-two (82) feet Industrial & Commercial.

B. A lot shall have frontage on the Private Road Easement, which is at least equal to the minimum lot frontage required for the zoning district in which the lot is located.

C. A Private Road shall intersect and connect to a public road. The Private Road shall have a minimum of sixty-six (66) feet of frontage for residential, eighty (80) feet for Industrial & Commercial at its access point to the public road. A Private Road shall not be approved which accesses a public road by another Private Road.

D. A Private Road serving two (2) or more lots shall be given a street name that is not the same or similar to any other street named in the county. A street sign, bearing the street name given the Private Road, meeting Berrien County Road Commission standards as to design, location and maintenance, shall be erected and maintained by the applicant/s where such Private Road intersects any public road. This provision shall apply to existing Private Roads. A street sign shall be erected within one (1) year after the adoption of this Ordinance.

E. A new Private Road serving five (5) or less lots is not required to be paved but shall have a minimum width of sixteen (16) feet with a three (3) foot shoulder on each side. Shoulder grading shall not exceed a slope of one half of an inch (1/2") per foot. The road shall have a minimum of three-tenths foot (0.3') crown from the centerline to the edge of the road. The road base shall consist of at least a six (6) inch gravel base (MDOT 22A) with a twelve (12) inch sand sub-base (MDOT Class 2). The road shall widen at any dead-end so there is at least a forty (40) foot radius turn-around.

F. A Private Road shall not exceed a grade of six percent (6%), provided that within 30feet of an intersection of a Private Road with any other Private Road or with any public right-of-way a Private Road shall not exceed a grade of one and one-half percent (1.5%).

G. Private Road shall be constructed in a manner to provide effective storm water drainage and to prevent run-off-onto adjacent property. If a Private Road crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culvert or other structure) must be certified by a registered professional engineer that it complies with applicable Berrien County Drain Commission and State of Michigan requirements.

H. A dwelling unit that derives its primary access from a Private Road shall display a house number in a manner so that the number is at all times readily visible from the Private Road. The house numbers shall be a minimum of three (3) inches in height.

I. In determining the location of a Private Road, consideration shall be given to safety of traffic entering and exiting the driveway in relationship with the public road.

J. The Private Road intersection must have a minimum corner clearance of one hundred twenty five (125) feet from a public road cross street. Corner clearance is measured from the ultimate near cross street curb to the near Private Road curb.

## **SECTION 1.05**

### **ROAD MAINTENANCE**

#### **A. Road Maintenance Agreement**

The applicant/s, and/or owner/s, of the proposed Private Road shall provide to the Township Clerk a recorded road maintenance agreement, access easement agreement, and deed restrictions in compliance with Section 1.06(B)(5) which shall provide for the perpetual private (non-public) maintenance of such roads and/or easements to a necessary and reasonable standard to serve the parties having an interest in the Private Road. These documents shall contain the following provisions:

(1) A method of initiating and financing of such road and/or easements in order to keep the road in a reasonable good and usable condition.

(2) A workable method of apportioning the costs of maintenance and improvements. For new Private Road applications and for applications for the extension of existing Private Roads, the recorded road maintenance agreement and the method of apportioning the costs of maintenance and improvements shall provide that any future improvements required or desired shall be completed over the entire length of the Private Road and/or any extensions thereto.

(3) A notice that if repairs and maintenance are not made, the Township Board may bring the road up to the design standards specified in Section 1.04 and assess owner/s of parcels on the Private Road for the improvements, plus an administrative fee in the amount of 10% of the total cost of the improvements.

(4) A notice that no public funds of the Township of Sodus are to be used to build, repair, or maintain the Private Road.

(5) Easements to the public for purposes of utilities, emergency and other public vehicles for whatever public services are necessary.

(6) A provision that the owner/s of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owner/s. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen, and others bound to or returning from any of the properties having a right to use the road.

#### B. Road Maintenance and Improvement Standards

(1) Improvements to and maintenance of Private Roads shall be accomplished so as to provide for a consistent surface maintained to meet the requirements of this Ordinance throughout the entire length of the Private Road.

### SECTION 1.06

#### PROCEDURE FOR REVIEW OF PRIVATE ROADS

##### A. Permit Application and Fee

An application to establish, extend, relocate, or rebuild a Private Road shall be filed with the Township Zoning Administrator along with a fee as set by the Township Board. The application shall contain or be accompanied by the following information:

(1) The name(s) of the owner/s and any other parties having any legal interest in the Private Road and the property across which it is to be constructed.

(2) Permanent parcel number or legal description of the property over which the Private Road is to be constructed.

(3) A site location map not to scale, which shows the location of the parcel containing the road to surrounding properties and roadways within one-half mile of the site.

(4) A scaled drawing showing the location, route, dimensions, specifications and design of the Private Road and any proposed extensions of the road, existing or proposed curb cuts and the location and distance to any public street which the Private Road is to intersect, in compliance with this Ordinance.

(5) A scaled drawing illustrating the proposed lot divisions.

(6) A road maintenance agreement, access easement agreement and deed restrictions as described in Section 1.05 herein, shall also accompany the application.

(7) A copy of the Driveway Permit Application from the Berrien County Road Commission.

(8) A letter from the Berrien County Road Commission indicating there is no known duplication of the proposed Private Road name.

##### B. Review of Permit Application

(1) The permit application, drawings and other required information should be forwarded to the Planning Commission to determine compliance with the standards for Private Roads. Not less than five (5) nor more than fifteen (15) days prior to the meeting, the Planning Commission Chairman shall send a notice to all property owners within three hundred (300) feet of the subject property.

Such notice shall describe the approximate location of the proposed new Private Road or the extension, relocation or rebuilding of an existing Private Road and the date, time and place of the Planning Commission meeting at which time the application will be considered.

(2) The Planning Commission shall review this information and may consult with the Township Fire Chief, Attorney, Engineer, or Planner as deemed necessary. A quorum of the Planning Commission shall be present to review and decide upon the permit application.

(3) If the Planning Commission finds that the application meets the requirements of this Ordinance, it shall then recommend to the Township Board that a permit be issued for the construction of the Private Road. This permit shall consist of a stamp noting approval and containing the signature of the Zoning Administrator and the date of approval. Two (2) copies of the Private Road plans shall be stamped for approval; the applicant/s, and one for Township records. This construction permit is not a Private Road Permit and does not authorize the construction of any dwelling units on the Private Road. The construction permit is valid for a period of one (1) year from the date of approval. If construction of the Private Road has not commenced before this date, the permit shall expire. A new permit shall be required before construction can begin.

(4) If the Planning Commission denies the application, the Planning Commission meeting minutes shall be provided to the applicant/s within fourteen (14) working days of the date of the Planning Commission meeting.

(5) Final Compliance Requirements -Upon completion of construction of the Private Road, the applicant/s shall provide to the Zoning Administrator,

(a) a letter from a registered professional engineer or the Berrien County Road Commission that the road has been constructed in compliance with the approved Private Road plans.

(b) Documentation that the road maintenance agreement, access easement and deed restrictions have been recorded with the Berrien County Register of Deeds office, and (c) a Driveway Permit for the Private Road from the Berrien County Road Commission.

(6) Private Road Permit Issuance -Upon approval of all items required for final compliance, the Zoning Administrator shall issue a Private Road Permit.

(7) Permits for Dwellings on Private Roads -A building permit shall not be issued for any principal dwelling that derives its primary access from a Private Road unless, a Private Road Permit has been issued by the Township, and the road has been completed in accordance with the approved permit.

## **SECTION 1.07**

### **TOWNSHIP LIABILITY**

The owner/s of the Private Road agree by applying for and securing a permit to construct the Private Road, that they shall indemnify and save and hold the Township harmless from all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair and replace the Private Road. Such wording shall appear on the application for the permit and be signed by the applicant/s.

## **SECTION 1.09**

### **PENALTIES**

Any person who violates a provision of this Ordinance shall be responsible for a municipal civil infraction, and upon an admission or determination of responsibility thereof, shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars, plus court costs. Each day that a violation occurs shall be considered a separate violation. The issuance of a citation for a municipal civil infraction shall not in any way limit the township in seeking enforcement of the provisions of this Ordinance, including, but not limited to, requesting a civil restraining order from any court of competent jurisdiction.

## **SECTION 1.10**

### **SEVERABILITY**

If any provision of this Ordinance or the application thereof to any person or circumstance shall be found to be invalid by any court, such invalidity shall not affect the remaining provisions of the Ordinance, which shall be given effect.

**SECTION 1.11**

**EFFECTIVE DATE**

This Ordinance shall take effect thirty (30) days after its publication in the manner provided by law.

Adopted this twenty third day of April 2002.

ADOPTED: April 23, 2002

EFFECTIVE: May 23, 2002

**STATE CONSTRUCTION CODE  
ORDINANCE  
FOR FLOODPLAIN MANAGEMENT  
SODUS TOWNSHIP  
BERRIEN COUNTY**

**Ordinance Number 25**

An ordinance to designate an enforcing agency to discharge the responsibility of Sodus Township located in Berrien County, under the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended.

**SODUS TOWNSHIP HEREBY ORDAINS:**

**Section 1. AGENCY DESIGNATED.** Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building Official of Sodus Township is hereby designated as the enforcing agency to discharge the responsibility of Sodus Township under Act 230, of the Public Acts of 1972, as amended, State of Michigan. Sodus Township assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

**Section 2. CODE APPENDIX ENFORCED.** Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within Sodus Township.

**Section 3. DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS.** The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled the Berrien County Flood Insurance Study and dated April 17, 2006, and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 0108C, 0109C, 0120C, 0130C, 0140C, 0235C, 0251C, 0252C, and 0253C, and dated April 17, 2006, are adopted by reference and declared to be a part of Section 1612.3 of the Michigan Building Code.

**Section 4. REPEALS.** All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

**Section 5. PUBLICATION.** This ordinance shall be effective after legal publication and in accordance with the provisions of the Act governing same.

Adopted this 28<sup>th</sup> day of March, 2006.

This ordinance duly adopted on March 28, 2006, at a regular meeting of The Sodus Township Board and will become effective on April 30, 2006.



**SODUS TOWNSHIP  
SEXUALLY ORIENTED BUSINESSES  
ORDINANCE NO. 27**

AN ORDINANCE OF SODUS TOWNSHIP REGULATING SEXUALLY ORIENTED BUSINESSES; PROVIDING FOR THE PURPOSE; PROVIDING FOR DEFINITIONS "ADULT ARCADE," "ADULT BOOKSTORE," "ADULT NOVELTY STORE OR ADULT VIDEO STORE," "ADULT CABARET," "ADULT MOTEL," "ADULT MOTION PICTURE THEATER OR ADULT LIVE STAGE PERFORMING THEATER," "EMPLOYEE," "ESCORT," "ESCORT AGENCY," "ESTABLISHMENT," "LICENSE," "NUDE MODEL STUDIO," "NUDITY/STATE OF NUDITY," "PERSON," "SEMI-NUDE/SEMI-NUDE CONDITION," "SEXUAL ENCOUNTER CENTER," "SEXUALLY ORIENTED BUSINESS," "SPECIFIED ANATOMICAL AREAS," "SPECIFIED CRIMINAL ACTIVITY," "SPECIFIED SEXUAL ACTIVITIES," "SUBSTANTIAL ENLARGEMENT," "TRANSFER OF OWNERSHIP OR CONTROL"; PROVIDING FOR CLASSIFICATION OF SEXUALLY ORIENTED BUSINESS; PROVIDING FOR A LICENSE REQUIREMENT; PROVIDING FOR THE ISSUANCE OF LICENSES; PROVIDING FOR FEES; PROVIDING FOR INSPECTION REQUIREMENT; PROVIDING FOR THE EXPIRATION OF LICENSES; PROVIDING THE SUSPENSION OF LICENSES; PROVIDING FOR THE REVOCATION OF LICENSES; PROVIDING FOR THE TRANSFER OF LICENSES; PROVIDING FOR THE LOCATION OF SEXUALLY ORIENTED BUSINESSES; PROVIDING FOR ADDITIONAL REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS, OR LIVE ENTERTAINMENT IN VIEWING ROOMS; PROVIDING FOR ADDITIONAL REGULATIONS FOR ESCORT AGENCIES; PROVIDING FOR ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS; PROVIDING FOR ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY; PROVIDING FOR THE PROHIBITION AGAINST CHILDREN IN A SEXUALLY ORIENTED BUSINESS; PROVIDING FOR THE HOURS OF OPERATION; PROVIDING FOR EXEMPTIONS; PROVIDING FOR THE PENALTY FOR VIOLATION; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES AND THE SAVINGS OF ALL PENDING MATTERS; PROVIDING FOR THE EFFECTIVE DATE HEREOF.

THE TOWNSHIP OF SODUS ORDAINS:

SEXUALLY ORIENTED BUSINESSES

Section 1 PURPOSE

The purpose of this ordinance is to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of Sodus Township (hereinafter referred to as ATownship@), and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Township. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

Section 2 DEFINITIONS

A. "ADULT ARCADE" means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, 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" (as herein defined).

B. "ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE" means a commercial establishment having ten percent (10%) or more of all usable interior, retail, wholesale, or warehouse space devoted to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified Sexual Activities" or "specified Anatomical Areas" (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material. Such establishment or the segment or section devoted to the sale or display of such material in an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

C. "ADULT CABARET" an establishment which features any of the following: topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, or topless and/or bottomless waitpersons or employees.

D. "ADULT MOTEL" means a hotel, motel or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which 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 which advertises the availability of this adult type of photographic reproductions; or
2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

E. "ADULT MOTION PICTURE THEATER OR ADULT LIVE STAGE PERFORMING THEATER" means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons therein. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

F. "EMPLOYEE" means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

G. "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.

H. "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.

I. "ESTABLISHMENT" means and includes any of the following:

1. The opening or commencement of any sexually oriented business as a new business;
2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

3. The additions of any sexually oriented business to any other existing sexually oriented business; or
4. The relocation of any sexually oriented business.

J. "LICENSEE" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

K. "NUDE MODEL STUDIO" means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Michigan or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
2. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
3. Where no more than one nude or semi-nude model is on the premises at any one time.

L. "NUDITY or a STATE OF NUDITY" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state. Nudity or a state of nudity does not include 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. Material as defined in Section 2 of Act No. 343 of the Public Acts of 1984, being Section 752.362 of the Michigan Compiled Laws.
3. Sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being Section 722.673 of the Michigan Compiled Laws.

M. "PERSON" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

N. "SEMI-NUDE or in a SEMI-NUDE CONDITION" means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part. A Semi-nude or a state of A Semi-nude Condition does not include 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. Material as defined in Section 2 of Act No. 343 of the Public Acts of 1984, being Section 752.362 of the Michigan Compiled Laws.
3. Sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being Section 722.673 of the Michigan Compiled Laws.

O. "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 the opposite sex; or
2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

P. "SEXUALLY ORIENTED BUSINESS" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater or adult live stage performing theater, escort agency, nude model studio, or sexual encounter center.

Q. "SPECIFIED ANATOMICAL AREAS" means portions of the human body defined as follows:

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

R. "SPECIFIED CRIMINAL ACTIVITY" means any of the following offenses:

1. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault, molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;
2. For which:
  - (a) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
  - (b) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
  - (c) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the convictions are of two or more misdemeanors or combination of misdemeanor offenses occurring within any 24-month period.
3. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

S. "SPECIFIED SEXUAL ACTIVITIES" The explicit display of one or more of the following:

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

T. "SUBSTANTIAL ENLARGEMENT" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this ordinance takes effect.

U. "TRANSFER OF OWNERSHIP OR CONTROL" of a sexually oriented business means and includes any of the following:

1. The sale, lease, or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

### Section 3 CLASSIFICATION

A. Sexually oriented businesses are classified as follows:

1. Adult arcades;
2. Adult bookstores, adult novelty stores, or adult video stores;
3. Adult cabarets;
4. Adult motels;
5. Adult motion picture theaters or adult live stage performing theaters;
6. Escort agencies;
7. Nude model studios; and
8. Sexual encounter centers.

### Section 4 LICENSE REQUIRED

A. It is unlawful:

1. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the Township pursuant to this ordinance.
2. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the Township pursuant to this ordinance.
3. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this ordinance.

B. An application for a license must be made on a form provided by the Township.

C. All applicants must be qualified according to the provisions of this ordinance. The application may request and the applicant shall provide such information (including fingerprints) as to enable the Township to determine whether the applicant meets the qualifications established in this ordinance.

D. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a twenty (20) percent or greater interest in the business must sign the application for

a license as applicant. Each applicant must be qualified under the following Section and each applicant shall be considered a licensee if a license is granted.

E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

1. If the applicant is:

(a) An *individual*, the individual shall state his/her legal name and any aliases and submit proof that he/she is eighteen (18) years of age;

(b) A *partnership*, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

(c) A *corporation*, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state 1) the sexually oriented business's fictitious name and 2) submit the required registration documents.

3. Whether the applicant, or a person residing with the applicant, has been convicted of a specific criminal activity as defined in this ordinance, and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

4. Whether the applicant, or a person residing with the applicant, has had a previous license under this ordinance or other similar sexually oriented business ordinances from another municipality or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this ordinance whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

5. Whether the applicant or a person residing with the applicant holds any other licenses under this ordinance or other similar sexually oriented business ordinance from another municipality or county and, if so, the names and locations of such other licensed businesses.

6. The single classification of license for which the applicant is filing.

7. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.

8. The applicant's mailing address and residential address.

9. A recent photograph of the applicant(s).

10. The applicant's driver's license number, Social Security number, and/or his/her state or federally issued tax identification number.

11. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

12. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park or recreation area within one thousand (1,000) feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

13. If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, videos cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section 14.0.

F. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the Township the following information:

1. The applicant's name or any other name (including "stage" names) or aliases used by the individual;

2. Age, date, and place of birth;

3. Height, weight, hair and eye color;

4. Present residence address and telephone number;

5. Present business and address and telephone number;
6. Date, issuing state and number of driver's permit or other identification card information;
7. Social Security number; and
8. Proof that the individual is at least eighteen (18) years of age.

G. Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:

1. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant,
2. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other municipality, county or state has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
3. A statement whether the applicant has been convicted of a specified criminal activity as defined in this ordinance and, if so, the specified criminal activity involved, the date, place and jurisdiction of each conviction.

#### Section 5 ISSUANCE OF LICENSE

A. Upon the filing of said application for a sexually oriented business employee license, the Township shall issue a temporary license to said applicant. The application shall then be referred to the appropriate Township departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within forty-five (45) days from the date the completed application is filed. After the investigation, the Township shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

1. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
2. The applicant is under the age of eighteen (18) years;
3. The applicant has been convicted of a "specified criminal activity@ as defined in this ordinance;
4. The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this ordinance;
5. The applicant has had a sexually oriented business employee license revoked by the Township within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in Section 10.

B. A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the Township that the applicant has not been convicted of any specified criminal



activity as defined in this ordinance or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in Section 6.

C. Within forty-five (45) days after receipt of a completed sexually oriented business application, the Township shall approve or deny the issuance of a license to an applicant. The Township shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

1. An applicant is under eighteen (18) years of age.
2. An applicant or a person with whom applicant is residing is overdue in payment to the Township of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
4. An applicant or a person with whom the applicant is residing has been denied a license by the Township to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
5. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this ordinance.
6. The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
7. The license fee required by this ordinance has not been paid.
8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this ordinance.

D. The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to Section 3. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

E. The health department, fire department, and the building official shall complete their certification that the premises is in compliance or not in compliance within forty-five (45) days of receipt of the application by the Township.

F. A sexually oriented business license shall issue for only one classification as found in Section 3.

#### Section 6 FEES

A. Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee. The fee shall be set by resolution of the Township Board of Trustees.

B. In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the Township an annual non-refundable license fee within thirty (30) days of license issuance or renewal. The license fee shall be set by resolution of the Township Board of Trustees.

C. Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual non-refundable application, investigation, and license fee; the amount of said fee shall be established by resolution of the Township Board of Trustees.

D. All license applications and fees shall be submitted to the Clerk of the Township.

#### Section 7 INSPECTION

A. An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department, or other Township departments or agents to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time occupied or open for business.

B. A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business.

#### Section 8 EXPIRATION OF LICENSE

A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 4. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

B. When the Township denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the Township finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

#### Section 9 SUSPENSION

A. The Township shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

1. Violated or is not in compliance with any section of this ordinance;
2. Refused to allow an inspection of the sexually oriented business premises as authorized by this ordinance.

#### Section 10 REVOCATION

A. The Township shall revoke a license if a cause of suspension in Section 9 occurs and the license has been previously suspended within the preceding twelve (12) months.

B. The Township shall revoke a license if it determines that:

1. A licensee gave false or misleading information in the material submitted during the application process;
2. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
3. A licensee has knowingly allowed prostitution on the premises;

4. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
5. Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or
6. A licensee is delinquent in payment to the Township, County, or State for any taxes or fees past due.

C When the Township revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the Township finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

D. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

#### Section 11 SUSPENSION OR REVOCATION HEARING; JUDICIAL REVIEW; TRANSFER OF LICENSE

On determining that grounds for license suspension or revocation exist, the Township shall furnish written notice of the proposed suspension or revocation to the licensee. Such notice shall set forth the time and place of a hearing to be conducted by a hearing officer appointed by the Township, the grounds upon which the hearing is based, the pertinent ordinance or code sections at issue, and a brief summary of the facts in support of the suspension or revocation. The notice shall be mailed, postage prepaid, to the last known address of the licensee, or shall be delivered to the licensee personally, at least ten (10) working days prior to the hearing date. At the hearing, all parties shall have a right to offer testimonial, documentary, and tangible evidence on the issues, may be represented by counsel, and shall have the right to confront and cross-examine witnesses. Any relevant evidence upon which reasonable persons are accustomed to rely in the conduct of serious matters may be admitted. Any hearing under this section may be continued for a reasonable time for the convenience of a party or witness.

Notice of the hearing officer's decision shall be mailed to the applicant or licensee no later than seven (7) days after the hearing. If the hearing officer finds and determines that there are grounds for disciplinary action, the Township shall suspend or revoke the license pursuant to this ordinance.

All decisions of the Township to issue, review, deny, suspend or revoke a license are final within thirty (30) calendar days. After any denial, or a suspension or revocation, the applicant or licensee may seek prompt judicial review of such decision in any court of competent jurisdiction as provided by law. Notwithstanding the applicant's or licensee's right to initiate judicial review, the Township may, upon the written request of an aggrieved applicant or licensee, within five (5) business days of its receipt of the request, file an action with a court of competent jurisdiction seeking declaratory and injunctive relief, including temporary and preliminary relief, as to the propriety of the denial, revocation, or suspension.

If the Township denies an initial or renewal application and the aggrieved applicant either commences a legal action to determine the validity of the denial or makes a written request in the manner set forth herein that the Township commence such action, then the Township may issue a temporary license. This temporary license shall remain in effect only until the court in which the action is pending renders a decision as to the propriety of the denial. Any temporary license issued pursuant to this section shall not grant any vested rights to the holder of the temporary license.

#### Section 12 TRANSFER OF LICENSE

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

### Section 13 LOCATION OF SEXUALLY ORIENTED BUSINESSES

A. It shall be unlawful for any person to operate or cause to be operated a sexually oriented business within one thousand (1000) feet of:

1. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
2. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not including facilities used primarily for another purpose and only incidentally as a school;
3. A boundary of a residential district as defined in the Township Zoning Ordinance and Zoning Map;
4. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Township which is under the control, operation, or management of the Township park and recreation authorities;
5. The property line of a lot devoted to a residential use as defined in the Township Zoning Ordinance;
6. An entertainment business which is oriented primarily towards children or family entertainment;  
or
7. A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State.

B. It shall be unlawful for any person to cause or permit the operation, the substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.

C. It shall be unlawful for any person to cause or permit the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

D. For the purpose of subsection A of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection A. Presence of a municipal, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

E. For purposes of subsection B of this Section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

## Section 14 ADDITIONAL REGULATIONS FOR ADULT MOTELS

- A. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttal presumption that the establishment is an adult motel as that term is defined in this ordinance.
- B. A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he rents or sub-rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or sub-rents the same sleeping room again.
- C. For purposes of subsection B of this Section, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

## Section 15 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS OR LIVE ENTERTAINMENT IN VIEWING ROOMS

- A. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depict specified sexual activities or specified anatomical areas, shall comply with the following requirements:
1. Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Township may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
  2. The application shall be sworn to be true and correct by the applicant.
  3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Township.
  4. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
  5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
  6. It shall be the duty of the licensee to ensure that the view area specified in subsection 5 remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated

as an area in which patrons will not be permitted in the application filed pursuant to subsection 1 of this Section.

7. No viewing room may be occupied by more than one person at any time.

8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5) foot-candles as measured at the floor level.

9. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

10. No licensee shall allow openings of any kind to exist between viewing rooms or booths.

11. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

12. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

13. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

14. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight (48) inches of the floor.

B. A person having a duty under Subsection (1) through (14) of Subsection A above commits a misdemeanor if he knowingly fails to fulfill that duty.

#### Section 16 ADDITIONAL REGULATIONS FOR ESCORT AGENCIES

A. An escort agency shall not employ any person under the age of eighteen (18) years.

B. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

#### Section 17 ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS

A. A nude model studio shall not employ any person under the age of eighteen (18) years.

B. It shall be unlawful for any person under the age of eighteen (18) years to appear semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen (18) years was in a restroom not open to public view or visible to any other person.

C. It shall be unlawful for any person to appear in a state of nudity, or to knowingly allow another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.

D. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

#### Section 18 ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY

A. It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.

B. It shall be a misdemeanor for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten (10) feet from any patron or customer and on a stage at least two feet from the floor.

C. It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.

D. It shall be a misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer.

#### Section 19 PROHIBITION AGAINST CHILDREN IN A SEXUALLY ORIENTED BUSINESS

It shall be unlawful for any person to knowingly allow a person under the age of 18 years on the premises of a sexually oriented business.

#### Section 20 HOURS OF OPERATION

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) a.m. and eight o'clock (8:00) a.m. on weekdays and Saturdays, and one o'clock (1:00) a.m. and noon (12:00) p.m. on Sundays.

#### Section 21 EXEMPTIONS

A. It is a defense to prosecution under Section 17 that a person appearing in a state of nudity did so in a modeling class operated:

1. By a proprietary school, licensed by the State of Michigan; a college, junior college, or university supported entirely or partly by taxation;
2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
3. In a structure:
  - (a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
  - (b) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
  - (c) Where no more than one nude model is on the premises at any one time.

#### Section 22 PENALTY

Any person, corporation, partnership or any other legal entity who violates the provisions of this Ordinance shall be guilty of a misdemeanor and may be fined not more than Five Hundred Dollars (\$500.00) and/or imprisoned for not more than ninety (90) days, or both, in the discretion of the Court.

#### Section 23 REPEAL

All other Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance, except as herein provided, are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

#### Section 24 SEVERABILITY

If any section, subsection, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

#### Section 25 SAVINGS CLAUSE

The repeal or amendment herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution of any right established or occurring prior to the effective date of this Ordinance, as amended.

#### Section 26 EFFECTIVE DATE

This Ordinance, as amended, shall take full force and effect upon publication.

I hereby certify that the foregoing is a true and correct copy of the Sexually Oriented Businesses Ordinance for Sodus Township, Berrien County, Michigan, duly adopted on the 25th day of April, 2006.

Adopted: April 25, 2006

Effective: June 1, 2006



**ILLICIT DISCHARGE**  
**AND**  
**CONNECTION ORDINANCE**  
**No. #28**  
**SODUS TOWNSHIP, MICHIGAN**  
**Adopted: October 11, 2005**

**AN ORDINANCE to regulate non-storm water discharges to the storm water drainage system to the maximum extent practicable as required by federal and state law; to establish methods for controlling the introduction of pollutants into the storm water drainage system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process; to provide for payment or reimbursement of costs and expenses incurred by the township associated with noncompliance; to provide for the inspection, sampling, and monitoring of storm water and other discharges; and to provide penalties for violations of the ordinance.**

**The township (Sodus Township) ordains:**

**ARTICLE I                    GENERAL**

**SECTION 1.01    STATUTORY AUTHORITY AND TITLE**

This Ordinance is adopted in accordance with the Home Rule City Act, as amended, being MCL 117.1, et seq. (for townships and villages, cite proper statute); the Drain Code of 1956, as amended, being MCL 280.1, et seq.; the Land Division Act, as amended, being MCL 560.1, et seq.; the Revenue Bond Act, as amended, being MCL 141.101, et seq.; the Natural Resources and Environmental Protection Act, as amended, being MCL 324.101, et seq.; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33 USC 1342(p) and 40 CFR Parts 9, 122, 123, and 124; and other applicable state and federal laws.

The township shall administer, implement, and enforce the provisions of the ordinance. Any powers granted, or duties imposed, upon the township may be delegated in writing by the supervisor of the township to persons or entities acting in the beneficial interest of, or in the employ of the township.

**SECTION 1.02    FINDINGS**

The township finds that:

- (1) Illicit discharges contain pollutants that will significantly degrade the water bodies and water resources of the township, thus threatening the health, safety, and welfare of the citizenry.
- (2) Illicit discharges enter the storm water drainage system through either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the storm drain system or spills connected by drain inlets).
- (3) Establishing the measures for controlling illicit discharges and connections contained in this Ordinance and implementing the same will address many of the deleterious effects of illicit discharges.

- (4) Any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance.

### SECTION 1.03 PURPOSE

It is the purpose of this Ordinance to establish minimum storm water management requirements and controls to accomplish, among others, the following objectives:

- (1) To regulate the contribution of pollutants to the storm water drainage system and water bodies by storm water discharges by any user.
- (2) To prohibit illicit discharges and connections to the storm water drainage system and water bodies.
- (3) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this Ordinance.
- (4) To provide appropriate remedies for failure to comply with this Ordinance.

### SECTION 1.04 APPLICABILITY AND GENERAL PROVISIONS

This Ordinance shall apply to all discharges entering the storm water drainage system and water bodies generated on any developed and undeveloped lands.

### SECTION 1.05 DEFINITIONS

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context in which they are used specifically indicates otherwise:

*Authorized Enforcement Agency:* The township, and/or any persons or agencies designated to act as the Authorized Enforcement Agency by the township.

*Best Management Practices (BMPs):* Structural devices or nonstructural practices that are designed to prevent pollutants from entering storm water flows, to direct the flow of storm water, or to treat polluted storm water flows. BMPs may include, but shall not be limited to, those described in the Michigan Department of Environmental Quality Guidebook of BMPs for Michigan watersheds. Equivalent practices and design criteria that accomplish the purposes of this Ordinance (including, but not limited to, minimizing storm water runoff and preventing the discharge of pollutants into storm water) shall be as determined by the township Engineer.

*Clean Water Act:* The Federal Water Pollution Control Act, 33 USC Section 1251 et seq., as amended, and the applicable regulations promulgated thereafter.

*Discharge:* means the introduction (intentionally or unintentionally, and directly or indirectly) of any liquid, substance, pollutant, or other material into a storm water drainage system or water body.

*Discharger:* Any person who directly or indirectly discharges storm water from any premises. Discharger also includes any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission that is, or results in a violation of this Ordinance.

*Drain:* Any and all conduits, facilities, measures, areas, and structures that serve to convey, catch, hold, filter, store, and/or receive storm water or groundwater, either on a temporary or permanent basis.

*Drainage:* The collection, conveyance, or discharge of groundwater and/or surface water.

*Drainage way:* A drain, water body, or floodplain.

*EPA:* The U.S. Environmental Protection Agency (EPA).

*Floodplain:* The area, usually low lands, adjoining the channel of a river, stream, or watercourse or lake, or other body of standing water that has been or may be covered by floodwater.

*Hazardous Materials:* Any solid, liquid, semisolid, or gaseous substance or material that because of its quantity, quality, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible illness or serious incapacitating but reversible illness, or may pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed.

*Illicit Connection:* Any method, means, or conduit for conveying an illicit discharge into a water body or a storm water drainage system.

*Illicit Discharge:* Any discharge to a water body or a storm water drainage system that does not consist entirely of storm water, that is not authorized by the terms of an NPDES permit, or that is not an authorized discharge as defined by this Ordinance.

*MDEQ:* Michigan Department of Environmental Quality.

*National Pollutant Discharge Elimination System (NPDES) Permit:* A permit issued by the EPA or a state under authority delegated pursuant to the Clean Water Act that authorizes the discharge of pollutants to waters of the United States.

*Non-Storm Water Discharge:* Any discharge to the storm water drainage system or a water body that is not composed entirely of storm water.

*Person:* An individual, firm, partnership, association, public or private corporation, public agency, instrumentality, or any other legal entity.

*Pollutant:* The term pollutant includes, but is not limited to, the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, hazardous materials, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial, and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act. Pollutant also includes properties or characteristics of water, including, but not limited to, pH, heat, TSS, turbidity, color, BOD, COD, toxicity, and odor.

*Premises:* Any building, structure, lot, parcel of land, or portion of land, or property, whether improved or unimproved, including adjacent sidewalks and parking strips.

*Property Owner:* Any person having legal or equitable title to premises or any person having or exercising care, custody, or control over any premises.

*State of Michigan Water Quality Standards:* All applicable state rules, regulations, and laws pertaining to water quality, including the provisions of Section 3106 of Part 31 of 1994 PA 451, as amended.

*Storm Water Drainage System:* Storm sewers, conduits, curbs, gutters, catch basins, drains, ditches, pumping devices, parking lots, roads, or other man-made channels that are designed or used, singly or together in combination with one another, for collecting or conveying storm water.

*Storm Water Pollution Prevention Plan:* A document, that describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, a storm water drainage system, and/or a water body to the maximum extent practicable.

*Storm Water Runoff (or Storm Water):* The runoff and drainage of precipitation resulting from rainfall, snowmelt, or other natural event or process.

*Toxic Material:* Any pollutant or combination of pollutants that is or can potentially be harmful to the public health or the environment, including, without limitation, those listed in 40 CFR 40 1.15 as toxic under the provisions of the Clean Water Act, or listed in the Critical Materials Register promulgated by the Michigan Department of Environmental Quality, or as otherwise provided by local, state, or federal laws, rules, or regulations.

*Wastewater:* Any water or other liquid, other than uncontaminated storm water, discharged from a premises. The term includes any water that has in any way been used and degraded or physically or chemically altered.

*Water Body:* A river, lake, stream, creek, or other watercourse or wetlands.

## **ARTICLE II                    PROHIBITION AND AUTHORIZATIONS**

### **SECTION 2.01 PROHIBITED DISCHARGES**

- (1) It is unlawful for any person to discharge, or cause to be discharged, to a storm water drainage system or water body any substance or material, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water or an authorized discharge. This prohibition includes the commencement, conducting, or continuance of any illicit discharge by any person to a storm water drainage system or water body.
- (2) Any person discharging storm water shall effectively prevent pollutants from being discharged with the storm water, except in accordance with BMPs.
- (3) The Authorized Enforcement Agency is authorized to require dischargers to implement pollution prevention measures, using Storm Water Pollution Prevention Plans and BMPs, as determined necessary by the Authorized Enforcement Agency to prevent or reduce the discharge of pollutants to a storm water drainage system or water body.
- (4) The discharge prohibitions of this section shall not apply to any non-storm water discharge authorized under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the EPA, provided the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm water drainage system.

### **SECTION 2.02 PROHIBITED ILLICIT CONNECTIONS**

- (1) It is unlawful for any person to construct, use, maintain (or to allow the construction, use, maintenance or continued existence of) an illicit connection.
- (2) This prohibition expressly includes, without limitation, illicit connections made prior to the effective date of this Ordinance, and regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

### **SECTION 2.03 AUTHORIZED DISCHARGES**

The following non-storm water discharges are permissible, but only if they do not result in a violation of State of Michigan water quality standards and provided that they are undertaken in compliance with any applicable or required BMPs:

- (1) Water supply line flushing.
- (2) Landscape irrigation runoff.
- (3) Diverted stream flows.
- (4) Rising groundwater.
- (5) Uncontaminated groundwater infiltration to storm drains.
- (6) Uncontaminated pumped groundwater.
- (7) Discharges from potable water sources.
- (8) Foundation drains.
- (9) Air conditioning condensate.
- (10) Irrigation water.
- (11) Springs.
- (12) Water from crawl space pumps.
- (13) Footing drains and basement sump pumps.
- (14) Lawn watering runoff.
- (15) Waters from non-commercial car washing.
- (16) Flows from riparian habitats and wetlands.
- (17) Residential swimming pool water and other dechlorinated swimming pool water, provided that any filter backwash water that is present is treated.
- (18) Residual street wash water.
- (19) Discharges or flows from emergency fire fighting activities.
- (20) Discharges specifically authorized in writing by the Authorized Enforcement Agency as being necessary to protect public health, welfare, and safety or the environment.

#### **SECTION 2.04 STORAGE OF HAZARDOUS OR TOXIC MATERIALS IN DRAINAGEWAY**

Except as permitted by law, it shall be unlawful for any person to store or stockpile, within a drainage way, any hazardous or toxic materials, unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a storm water drainage system or water body.

#### **ARTICLE III INSPECTION, MONITORING, REPORTING, AND RECORD KEEPING**

### SECTION 3.01 INSPECTIONS AND SAMPLING

The Authorized Enforcement Agency may inspect and/or obtain samples from any discharger's premises as necessary to determine compliance with the requirements of this Ordinance. Upon request, the discharger shall allow properly identified representatives of the Authorized Enforcement Agency to enter the premises of the discharger at all hours necessary for the purposes of such inspection or investigation, including, but not limited to, smoke/dye testing, televising pipes, sampling, and excavation. The Authorized Enforcement Agency shall provide the discharger reasonable advance notice of the need for such access, if possible and consistent with protection of public health and safety and the environment. The properly identified representatives may place on the discharger's premises the equipment or devices used for such sampling or inspection. Unreasonable delays in allowing access to a premises is a violation of this Ordinance.

### SECTION 3.02 STORM WATER MONITORING FACILITIES

If directed in writing to do so by the Authorized Enforcement Agency, a discharger of storm water runoff from any premises used for commercial or industrial purposes shall provide and operate equipment or devices for the monitoring of storm water runoff to provide for inspection, sampling, and flow measurement of each discharge to a water body or a storm water drainage system, as specified by the Authorized Enforcement Agency. The Authorized Enforcement Agency may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling, and flow measurement of discharges in order to determine whether adverse effects from, or as a result of, such discharges may occur. All such equipment and devices for the inspection, sampling, and flow measurement of discharges shall be installed and maintained at the discharger's expense in accordance with applicable laws, ordinances, and regulations.

### SECTION 3.03 ACCIDENTAL DISCHARGES

Any discharger who accidentally discharges into a storm water drainage system or a water body any substance other than storm water or an authorized discharge shall immediately notify the Authorized Enforcement Agency of the discharge. If the notification is given orally, a written report concerning the discharge shall be filed with the Authorized Enforcement Agency within 5 days. The written report shall specify all of the following:

- (1) The composition of the discharge and the cause thereof.
- (2) The exact date, time, and estimated volume of the discharge.
- (3) All measures taken to clean up the discharge, all measures taken or proposed to be taken to mitigate any known or potential adverse impacts of the discharge, and all measures proposed to be taken to reduce and prevent any recurrences.
- (4) The names and telephone numbers of the individual making the report, and (if different) the individual who may be contacted for additional information regarding the discharge.

### SECTION 3.04 RECORD KEEPING REQUIREMENT

Any person that violates any requirement of this Ordinance or that is subject to monitoring under this Ordinance shall retain and preserve for no less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence, and records, including records on magnetic or electronic media, and any and all summaries of such records relating to monitoring, sampling, and chemical analysis of any discharge or storm water runoff from any premises connected with the violation or subject to monitoring.

## ARTICLE IV ENFORCEMENT

### SECTION 4.01 SANCTIONS FOR VIOLATION

- (1) Violation; Municipal Civil Infraction. Except as provided by Section 4.01(6), and notwithstanding any other provision of the (city's, village's, township's) laws, ordinances, and regulations to the contrary , a person who violates any provision of this Ordinance (including, without limitation, any notice, order, permit, decision or determination promulgated, issued, or made by the Authorized Enforcement Agency under this Ordinance) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than one thousand dollars [\$1,000] per day for each infraction and not more than ten thousand dollars [\$10,000] per day for each infraction, plus costs and other sanctions.
- (2) Repeat offenses; increased fines. Increased fines may be imposed for repeat offenses. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this Ordinance (i) committed by a person within any 12-month period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat-offense under this Ordinance shall be as follows:
  - (a) The fine for any offense that is a first repeat offense shall be not less than two thousand five hundred dollars [\$2,500], plus costs.
  - (b) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than five thousand dollars [\$5,000], plus costs.
- (3) Amount of Fines. Subject to the minimum fine amounts specified in Sections 4.01(2)(a) and 4.01(2)(a), the following factors shall be considered by a court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this Ordinance: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.
- (4) Authorized Local Official. Notwithstanding any other provision of the (city's, village's, township's) laws, ordinances, and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations (directing alleged violators to appear in district court) and/or notices (directing alleged violators to appear at the (city's, village's, township's) Municipal Violations Bureau, as applicable) for violations of this Ordinance (in addition to any other persons so designated by the Authorized Enforcement Agency): the supervisor; [specify others as applicable], and any police officer.
- (5) Other Requirements and Procedures. Except as otherwise provided by this section, the requirements and procedures for commencing municipal civil infraction actions; issuance and service of municipal civil infraction citations; determination and collection of court-ordered fines, costs and expenses; appearances and payment of fines and costs; failure to answer, appear, or pay fines; disposition of fines, costs and expenses paid; and other matters regarding municipal civil infractions shall be as set forth in Act No. 236 of the Public Acts of 1961, as amended.
- (6) Any person who (1) at the time of a violation knew or should have known that a pollutant or substance was discharged contrary to any provision of this Ordinance, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the Authorized Enforcement Agency under this Ordinance; or (2) intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this Ordinance, or in any other correspondence or communication, written or oral, with the Authorized Enforcement Agency regarding matters regulated by this Ordinance; or (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this Ordinance; or (4) commits any other act that is punishable under state law by imprisonment for more than 90 days; shall, upon conviction,

be guilty of a misdemeanor punishable by a fine of \$500 per violation, per day, or imprisonment for up to 90 days, or both in the discretion of the court.

- (7) Any person who aids or abets another person in a violation of this Ordinance shall be subject to the sanctions provided in this section.

#### SECTION 4.02 FAILURE TO COMPLY; COMPLETION

The Authorized Enforcement Agency is authorized, after giving reasonable notice and opportunity for compliance, to correct any violation of this Ordinance or damage or impairment to the storm water drainage system caused by a discharge and to bill the person causing the violation or discharge for the costs of the work to be reimbursed. The costs reimbursable under this section shall be in addition to fees, amounts or other costs and expenses required to be paid to the Authorized Enforcement Agency under other sections of this Ordinance.

#### SECTION 4.03 EMERGENCY MEASURES

If emergency measures are necessary to respond to a nuisance; to protect public safety, health, and welfare; and/or to prevent loss of life, injury, or damage to property, the Authorized Enforcement Agency is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this Ordinance, and shall promptly reimburse the township for all of such costs.

#### SECTION 4.04 COST RECOVERY FOR DAMAGE TO STORM WATER DRAINAGE SYSTEM

Any person who discharges to a storm water drainage system or a water body, including, but not limited to, any person who causes or creates a discharge that violates any provision of this Ordinance, produces a deposit or obstruction or otherwise damages or impairs a storm drainage system, or causes or contributes to a violation of any federal, state, or local law governing the township, shall be liable to and shall fully reimburse the township for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the township as a result of any such discharge, deposit, obstruction, damage, impairment, violation, exceedence, or noncompliance. The costs that must be reimbursed to the township shall include, but shall not be limited to, all of the following:

- (1) All costs incurred by the township in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, exceedence or noncompliance.
- (2) All costs to the township of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, exceedence, or noncompliance.
- (3) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the township, or any township representative, by any governmental agency or third party as a result of a violation of applicable laws or regulations that is caused by or contributed to by any discharge, violation, exceedence, or noncompliance.
- (4) The full value of any township staff time (including any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the township legal counsel and any special legal counsel), associated with responding to, investigating, verifying, and prosecuting any discharge, violation, exceedence or noncompliance, or otherwise enforcing the requirements of this Ordinance.

#### SECTION 4.05 COLLECTION OF COSTS; LIEN



- (1) Costs incurred by the township pursuant to Sections 4.02, 4.03, 4.04, and 4.06(1) shall constitute a lien on the premises, which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time, or as otherwise authorized by law. Any such charges that are delinquent for 6 months or more may be certified annually to the township Treasurer, who shall enter the lien on the next tax roll against the premises, the costs shall be collected, and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the township shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended, and by other applicable laws.
- (2) The failure by any person to pay any amounts required to be reimbursed to the township as provided by this Ordinance shall constitute an additional violation of this Ordinance.

#### SECTION 4.06                   SUSPENSION OF ACCESS TO THE STORM WATER DRAINAGE SYSTEM

- (1) Suspension due to illicit discharges in emergency situations. The Authorized Enforcement Agency may, without prior notice, suspend access to the storm water discharge system to any person or premises when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm water drainage system or a water body. If the person fails to comply with a suspension order issued in an emergency, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize damage to the storm water drainage system or the environment, or to minimize danger to persons, and bill the person for the costs to the township in taking such steps.
- (2) Suspension due to the detection of illicit discharge. Any person discharging to the storm water drainage system in violation of this Ordinance may have their access to the system terminated, if the Authorized Enforcement Agency determines that such termination would abate or reduce an illicit discharge. The Authorized Enforcement Agency will notify a violator of the proposed termination of its access. It shall be unlawful for any person to reinstate access of the storm water drainage system to a premises terminated pursuant to this section without the prior written approval of the Authorized Enforcement Agency.

#### SECTION 4.07    APPEALS

Any person to whom any provision of this Ordinance has been applied may appeal in writing to the township, not later than thirty (30) days after the action or decision being appealed. Such appeal shall identify the matter being appealed, and the basis for the appeal. The board shall consider the appeal and make a decision whereby it affirms, rejects, or modifies the action being appealed. In considering any such appeal, the board may consider the recommendations of the Authorized Enforcement Agency and the comments of other persons having knowledge or expertise regarding the matter. In considering any such appeal, the board may grant a temporary variance from the terms of this Ordinance so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- (1) The application of the Ordinance provisions being appealed will present or cause unnecessary hardship for the person appealing; provided, however, that unnecessary hardship shall not include the need for a property owner to incur additional reasonable expenses in order to comply with the Ordinance; and
- (2) The granting of the relief requested will not prevent accomplishment of the goals and purposes of this Ordinance, nor result in less effective management of storm water runoff.

#### SECTION 4.08    JUDICIAL RELIEF

With the approval of the township, the Authorized Enforcement Agency may institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this Ordinance or of any permit, order, notice, or agreement issued or entered into under this Ordinance. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity that a court may order. The Authorized Enforcement Agency may also seek collection of fines, penalties and any other amounts due to the township that a person has not paid.

#### SECTION 4.09 CUMULATIVE REMEDIES

The imposition of a single penalty, fine, order, damage, or surcharge upon any person for a violation of this Ordinance, or any permit, order, notice or agreement issued, or entered into under this Ordinance, shall not preclude the imposition by the township, the Authorized Enforcement Agency, or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable limitations on penalty amounts under state or federal laws or regulations. A criminal citation and prosecution of a criminal action against a person shall not be dependent upon and need not be held in abeyance during any civil, judicial, or administrative proceeding, conference, or hearing regarding the person.

### **ARTICLE V PERFORMANCE AND DESIGN STANDARDS**

#### SECTION 5.01 RESPONSIBILITY TO IMPLEMENT BMPS

The owner or operator of a premises used for commercial or industrial purposes shall provide, at the owner or operator's own expense, reasonable protection from an accidental discharge of prohibited materials or other wastes into the storm water drainage system or water body through the use of structural and nonstructural BMPs. Further, any person responsible for a premises that is, or may be, the source of an illicit discharge may be required to implement, at the person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the storm water drainage system or water body. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

### **ARTICLE VI OTHER MATTERS**

#### SECTION 6.01 INTERPRETATION

Words and phrases in this Ordinance shall be construed according to their common and accepted meanings, except those words and phrases defined in Section 1.05 shall be construed according to the respective definitions given in that section. Technical words and technical phrases not defined in this Ordinance, but which have acquired particular meanings in law or in technical usage, shall be construed according to such meanings.

#### SECTION 6.02 CATCH-LINE HEADINGS

The catch-line headings of the articles and sections of this Ordinance are intended for convenience only, and shall not be construed as affecting the meaning or interpretation of the text of the articles or sections to which they may refer.

#### SECTION 6.03 SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable, and if any part or provision of this Ordinance should be declared invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect any other part or provision of this Ordinance.

#### SECTION 6.04 OTHER ORDINANCES

This Ordinance shall be in addition to other ordinances of the township and shall not be deemed to repeal or replace other ordinances, or parts thereof; provided that in the event of any inconsistency or conflict between this Ordinance and any other provision of any other ordinance, the provisions of this Ordinance shall control.

#### SECTION 6.05 EFFECTIVE DATE

This Ordinance shall become effective November 25, 2005 following its publication or following the publication of a summary of its provisions in a local newspaper of general circulation.

This Ordinance was adopted October 11, 2005, by the Sodus Township Board and made effective.

ORDINANCE ESTABLISHING SCHEDULE OF FEES  
CHARGES AND EXPENSES AND COLLECTION PRO-  
CEDURE PERTAINING TO THE ZONING ORDINANCE  
OF SODUS TOWNSHIP, BERRIEN COUNTY, MICHIGAN

ORDINANCE NO. 2

An ordinance to establish a schedule of fees, charges, and expenses and to further establish a collection procedure for matters pertaining to the Zoning Ordinance of Sodus Township in accordance with Section 16 of said Zoning Ordinance.

THE TOWNSHIP BOARD OF SODUS TOWNSHIP  
BERRIEN COUNTY, MICHIGAN, ORDAINS:

Section I: This Ordinance shall be known and cited as the Sodus Township Zoning Fee Schedule Ordinance.

Section II: Fees

1. Mobile Home permit – renewal for migrant housing \$ 3.00 per unit
2. Hearings before Board of Appeals at regularly scheduled meeting date \$ 350.00
3. Public Hearing before Township Planning Commission held at regularly scheduled meeting date \$ 350.00
4. Special meetings or special public hearings before Township Board, Township Planning Commission and/or Board of Appeals convened at request of applicant to be held at a time other than regularly scheduled meeting date \$ 350.00
5. The schedule of fees above set forth shall be posted in the Township Hall of Sodus Township, and shall be available upon request from the Township Building Inspector.

Section III: Payment of Fees

1. The fees required herein under Section II, Sub-section No. 1 shall be paid to the Township Building Inspector and shall be paid at the same time of the request for the required permit(s).

2. The fees required herein under Section II, Sub-sections 2, 3 and 4 shall be paid to the Township Clerk and shall be paid at the same time the application for said hearing is filed.

Section IV: Amendments to this Ordinance may be made by the Sodus Township Board by resolution and said amendments shall be posted in the Township Hall and shall be available from the Township Building Inspector.

Section V: Effective date

This Ordinance shall take effect immediately after publication hereof.

The foregoing Sodus Township Zoning Fee Schedule Ordinance was adopted at a regular meeting of the Sodus Township Board held on the 27<sup>th</sup> day of September, 1977.

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Clarence Steinke, Supervisor

Attest:

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Virginia Palis, Township Clerk

October 1, 1977

SODUS TOWNSHIP  
ORDINANCE NO. 3

An Ordinance to prevent, reduce or eliminate blight, blighting factors or causes of blight within Sodus Township, Berrien County, Michigan; to provide for the enforcement hereof; and to provide penalties for the violation hereof, pursuant to the enacting authority therefore provided by Act 344 of the Public Acts of 1945 as amended.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN ORDAINS:

Section 1. Definitions

(a) Disabled Motor Vehicle. A disabled motor vehicle shall mean any vehicle which is incapable of being self propelled upon the public streets, or which does not meet the requirements for operation upon the public streets, including a current license.

(b) Junk. The term “junk” shall include, without limitation, parts of machinery or motor vehicles, broken and unusable furniture, stoves, refrigerators or other appliances, remnants of wood; metal or any other cast-off material of any kind, whether or not the same could be put to any reasonable use, including all forms of trash, rubbish, or debris not otherwise classified herein.

(c) Blighted Structure. The term “blighted structure” shall include, without limitation any dwelling, garage, or outbuilding, or any factory, shop, store, office building, warehouse or any other structure or part of a structure which, because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended, or which is in violation of the Township Fire Chief, or which has been condemned by the Township, County, or State Health Officials.

(d) Building Materials. The term “building materials” shall include, without limitation, lumber, brick, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, or cement, nails, screws, or any other materials used in constructing any structure.

(e) Person. The term “person” shall include all natural persons, firms, co-partnerships, corporations, and all associations of natural persons incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this ordinance, whether as owner, occupant, lessee, agent, servant, or employee shall, except as herein otherwise provided, be equally liable as principals.

Section 2. It is hereby determined that the storage or accumulation of junk, disabled motor vehicles, building materials, and the maintenance of blighted structures upon any private property within the Township of Sodus tends to result in blighted and deteriorated neighborhoods, the spread of vermin and disease, the increase of criminal activity, and therefore is contrary to the public peace, health, safety, and general welfare of the community.

### Section 3. Disabled Motor Vehicles

(a) Disabled motor vehicles shall not be permitted in the rights-of-way of the streets, alleys, or highways within the Township; provided, however, that this shall not apply to towing or similar transporting of such vehicles; and provided further, that a reasonable time (not to exceed 48 hours from the time of disability) shall be permitted for the removal or servicing of a disabled vehicle in any emergency caused by accident or sudden breakdown of the vehicle.

(b) Disabled motor vehicles shall not be permitted in a front yard as defined by the zoning ordinance of the Township; provided however, that a reasonable time (not to exceed 48 hours from the time of disability) shall be permitted for the removal or servicing of a disabled vehicle in any emergency caused by accident or sudden breakdown of the vehicle.

(c) One disabled motor vehicle may be permitted in a side or rear yard of a residential, commercial, or industrial lot; provided that such vehicle is not located in any open space required by the zoning laws. Service and repair work may be performed on such vehicle and incidental thereto parts, tools, and equipment may be stored and used. Nothing contained herein shall be construed as authorizing the disassembling, teardown, or scrapping of a motor vehicle, or to permit one motor vehicle to be scavenged or stripped for parts for use on another motor vehicle. Provided, however, that a disabled vehicle shall not be permitted to remain outside of a building for a period in excess of thirty (30) days on any lot used for residential purposes or on that portion of any lot within twenty (20) feet of an abutting lot used for residential purposes.

(d) Storage, service, and repair of a disabled motor vehicle which is conducted entirely within the confines of any accessory garage shall be permitted; provided, that such vehicle is the property of the owner or occupier of the lot and that such use is not a commercial use of the property, unless such use is authorized by other ordinances of the Township.

(e) Where permitted; storage, repair and servicing of disabled motor vehicles not authorized herein, and the tearing down, stripping, or junking of motor vehicles shall be permitted, only where and when such use is specifically authorized, permitted, or licensed under other ordinances of the Township, and in accordance therewith.

#### Section 4. Accumulation or Storage of Junk.

It shall be unlawful for any person to store, or to permit the storage or accumulation of junk, trash, rubbish or other debris on any property in the Township without a landfill permit except for the following purposes:

- (i) Domestic junk or refuse stored in a manner as not to create a nuisance for a period not to exceed fifteen (15) days.
- (ii) Junk on the premises of a properly zoned, licensed or approved junk dealer, junk buyer, dealer in used auto parts, dealer in second hand goods or junk.

#### Section 5. Maintenance of Blighted Structures

It shall be unlawful for any person to keep or maintain any blighted or vacant structure, dwelling, garage, out-building, factory, shop, store, or warehouse except in the following circumstances:

- (i) In the case of blighted or vacant structures as defined herein which have not been determined a fire hazard by the Township Fire Chief or condemned by a public Health Official, the same may be kept securely locked, boarded-up and otherwise protected to prevent entrance thereto by unauthorized persons provided such securing and boarding-up is done in accordance with the Sodus Township building code.
- (ii) Blighted or vacant structures which are in the course of construction in accordance with a valid building permit issued by the Township of Sodus provided that the construction is completed within a reasonable time.

#### Section 6. Storage and Accumulation of Building Materials

It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property except in a completely enclosed building or except where such building materials are part of the stock in trade or business located on said property or except when such building materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the Township of Sodus, and unless such construction is completed within a reasonable time.

#### Section 7. Enforcement

It shall be the duty of the duly authorized Police Department of Sodus Township to enforce this ordinance; provided however, the Chief Building Inspector, Zoning Enforcement Officer, Fire Chief, Health Officer, and Supervisor of the Township shall assist and cooperate in such enforcement; and further provided that the person determined to be in violation of this ordinance shall be given 48 hours prior notice, served personally upon him or posted in a conspicuous place upon the property wherein the violation occurs, which notice shall set forth in detail the nature and extent of the violation and further notifying the said person that enforcement action pursuant to the penal provisions of this ordinance will be taken if said violation is not corrected within the 48 hour time period.

#### Section 8. Penalty



Any person violating any of the provisions of this ordinance shall be liable to a fine of not more than Five Hundred (\$500.00) Dollars or imprisonment in the County Jail for not more than Ninety (90) days or both such fine and imprisonment. Each day that a violation of this ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this section provided no person shall be imprisoned for a single but continuing violation of this ordinance for a period of longer than Ninety (90) days.

A. In addition to the imposition of the foregoing fines and penalties, the violation of the provisions of this ordinance is deemed to be a nuisance and any person, firm or corporation who refuses or neglects to comply with an order of the Township Board, the Township Supervisor, the Township Building and Zoning Inspector or Enforcement Officer, issued under this ordinance, then said Board may cause said nuisance to be removed from the premises, impounded, destroyed and/or sold, and the cost thereof assessed against the owner or occupant of the premises upon which the same is locate. If the owner or occupant of such premises shall refuse upon demand to pay such expenses so incurred, such sum shall be assessed against the real estate involved and shall be collected and treated in the same manner as are taxes assessed under the general laws of the State of Michigan.

B. In the event of a sale of any such material or equipment by the Township, the proceeds from such sale shall be first used to reimburse the Township for the costs incurred therein and the balance, if any, shall be returned to the owner or occupant of the real estate involved as the case may be.

Section 9.

Should any section, clause, or provision of this ordinance be declared by any court to be invalid, the same shall not affect the validity of the remaining portions of such section of this ordinance or any part thereof other than the part so declared to be invalid.

Section 10.

This ordinance shall be effective thirty (30) days after passage and publishing.

ADOPTED: August 28, 1979.

\_\_\_\_\_  
Clarence Steinke  
Township Supervisor

\_\_\_\_\_  
Virginia Palis  
Township Clerk

AMENDMENT 8A AND 8B ADOPTED  
JUNE 26, 1990

\_\_\_\_\_  
Robert Tillstrom  
Township Supervisor

\_\_\_\_\_  
Virginia Palis  
Township Clerk

ORDINANCE FOR ADOPTION OF THE  
NATIONAL ELECTRICAL CODE

ORDINANCE NO. 4

An ordinance of the Township of Sodus regulating the installation of electric conductors and equipment within or on public and private buildings or other structures, including mobile homes, recreational vehicles, and floating dwelling units; and other premises such as yards, carnivals, parking and in other lots, industrial substations and regulating the installation of conductors that connect to the supply of electricity, the installation of other outside conductors on the premises, and the installation of optical fiber cable; repealing all ordinances parts of the ordinances in conflict therewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as “National Electrical Code”, 1984 edition, published by the National Fire Protection Association, be the same is hereby adopted as the code of the Township of Sodus for regulating the installation of electric conductors and equipment within or on public and private buildings or other structures, including mobile homes, recreational vehicles, and floating dwelling units; and other premises such as yards, carnivals, parking and in other lots, industrial substations and regulating the installation of conductors that connect to the supply of electricity, the installation of other outside conductors on the premises, and that the installation of optical fiber cable; in the Township of Sodus; providing for issuance of permits and collections of fees therefore; and each and all of the regulations, provisions, conditions and terms of such “National Electrical Code”, 1984 edition, published by the National Fire Protection Association, on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in

conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full effect and effect, from after thirty (30) days from passage and publishing.

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Clarence Steinke  
Sodus Township Supervisor

ATTEST:

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Virginia Palis, Township Clerk

	Ayes	Nays
Steinke	x	
Palis	x	
Schroeder	x	
Froehlich		
Collins	x	

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 24 day of July, 1984; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 28 day of July, 1984; and that true copy of same was filed with the Berrien County Clerk on the \_\_\_\_\_ day of \_\_\_\_\_, 1984.

ORDINANCE FOR ADOPTION OF THE  
UNIFORM BUILDING CODE AND

## UNIFORM BUILDING CODE STANDARDS

### ORDINANCE NO. 5

An ordinance of the Township of Sodus regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all building or structures in the Township of Sodus; providing for the issuance of permits and collection of fees therefore; repealing Ordinance No. 2 of the Township of Sodus and all other ordinances and parts of the ordinances in conflict therewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as “Uniform Building Code”, including Appendix Chapters 1, 7, 11, 12, 23, 32, 35, 38, 49, 51, 53, 55, 57 and 70, 1982 edition, and the “Uniform Building Code Standards,” 1982 edition, published by the International Conference of Building Officials, be and the same is hereby adopted as the code of the Township of Sodus for regulating the erection, construction, enlargement, alteration repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures in the Township of Sodus providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such “Uniform Building Code,” 1982 edition, and the “Uniform Building Code Standards,” 1982 edition, published by the International

Conference of Building Officials, on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2: That Ordinance No. 2 of the Township of Sodus, adopting a prior edition of the "Uniform Building Code," and all other ordinances or part of ordinances in conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full ofrect and effect, from after Thirty (30) days from passage and publishing.

DATED:  
July 24, 1984

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CLARENCE STEINKE  
Sodus Township Supervisor

ATTEST:

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Virginia Palis, Township Clerk

	Ayes	Nays
Steinke	x	
Palis	x	
Schroeder	x	
Froehlich (absent)		
Collins	x	

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 24 day of July, 1984; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 28 day of July, 1984; and the true copy of same was filed with the Berrien County Clerk on the \_\_\_\_\_ day of \_\_\_\_\_, 1984.

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Virginia Palis, Township Clerk

#### UNIFORM BUILDING CODE – AMENDMENT

IT IS HEREBY ORDAINED BY SODUS TOWNSHIP, BERRIEN COUNTY, MICHIGAN:

The Uniform Building Code previously adopted by Sodus Township on the 24 day of July, 1984, is hereby amended to adopt and include all amendments adopted and published by the International Conference of Building Officials to and including be effective on the 28 day of July, 1988.

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Virginia Palis, Sodus Township Clerk

ORDINANCE FOR ADOPTION OF THE  
UNIFORM MECHANICAL CODE

## ORDINANCE NO.6

An ordinance of the Township of Sodus regulating the erection, installation, alteration, repair, relocation, replacement, addition to use or maintenance of any heating, ventilating, cooling, refrigeration systems, incinerators, or other miscellaneous heat producing appliances within the Township of Sodus, providing for the issuance of permits and collection of fees therefore; repealing all ordinances and parts of ordinances in conflict herewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as “Uniform Mechanical Code”, including Appendix A, B, C, and D, 1982 edition, published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, be and the same is hereby adopted as the code of the Township of Sodus for regulating the erection, installation, alteration, repair, relocation, replacement, addition to use or maintenance of any heating, ventilating, cooling, refrigeration systems, incinerators, or other miscellaneous heat producing appliances within the Township of Sodus providing for issuance of permits and collection of fees, therefore; and each and all of the regulations, provisions, conditions and terms of such “Uniform Mechanical Code”, 1982 edition, published by the International Conference of Building Officials and International Association of Plumbing and Mechanical Officials, on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full effect and effect, from after Thirty (30) days from passage and publishing.

DATED:  
July 24, 1984

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CLARENCE STEINKE  
Sodus Township Supervisor

ATTEST

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Virginia Palis, Township Clerk

	Ayes	Nays
Steinke	X	
Palis	X	
Schroeder	X	
Froehlich	absent	
Collins	X	

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 24 day of July, 1984; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 28 day of July, 1984; and that true copy of same was filed with the Berrien County Clerk on the \_\_\_\_ day of \_\_\_\_\_, 1984

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Virginia Palis, Township Clerk



ORDINANCE FOR ADOPTION OF THE  
NATIONAL PLUMBING CODE

ORDINANCE NO. 7

An ordinance of the Township of Sodus regulating the design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, storms water and sewage disposal in buildings; the design and installation of gas piping, chilled water piping in connection with refrigeration process and comfort cooling, and hot water piping in connection with building heating, design and installation of piping for fire sprinklers and standpipes, water and drainage connections to such installations, providing for the issuance of permits and collection of fees therefore; repealing all ordinances and parts of the ordinances in conflict therewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as “BOCA Basic National Plumbing Code”, 1984 edition, including Appendix Chapters, A, B, C, D and E, published by the Building Officials and Code Administrators International, Inc., be and the same is hereby adopted as the code of the Township of Sodus for regulating the design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, storm water and sewage disposal in buildings; the design and installation of gas piping, chilled water piping in connection with refrigeration process and comfort cooling, and hot water piping for fire sprinklers and standpipes, water and drainage connections to such installations, in the Township of Sodus providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such “BOCA Basic National Plumbing Code”, 1984 edition, and the published by the Building Officials and Code Administrators International, Inc., on file in the

office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed EXCEPT that provisions of Ordinance No. 6, adopting the "Uniform mechanical Code", which may be in conflict herewith are specifically not repealed, and the provisions of said Ordinance No. 6 shall prevail when a conflict between said ordinance and the within ordinance exists.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full ofrect and effect, from after Thirty (30) days from passage and publishing.

DATED:  
July 24, 1984

\_\_\_\_\_  
CLARENCE STEINKE  
Sodus Township Supervisor

ATTEST

\_\_\_\_\_  
Virginia Palis, Township Clerk

	Ayes	Nays
Steinke	x	
Palis	x	
Schroeder	x	

Froehlich     absent  
Collins        x

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 24 day of July, 1984; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 28 day of July, 1984; and that true copy of same was filed with the Berrien County Clerk on the \_\_\_\_\_ day of \_\_\_\_\_, 1984

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Virginia Palis, Township Clerk

ORDINANCE TO AMEND ORDINANCE NO. 1  
SODUS TOWNSHIP ZONING ORDINANCE

ORDINANCE NO. 8

An ordinance of the Township of Sodus adopting a revised and reprinted copy of the Sodus Township Zoning Ordinance as amended through November 20, 1983 including all amendments to said Ordinance from August 26, 1980 through November 30, 1983.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain document, a copy of which is on file in the office of the Township Clerk being marked and designated as "Sodus Township Zoning Ordinance", as amended November 30, 1983 including amendments from August 26, 1980 through November 30, 1983 be and the same is hereby adopted as the Sodus Township Zoning Ordinance and further that all amendments including the following are hereby adopted, proper public hearings having been previously held; amendments changing the square floor area first story for a single family dwelling one-story in height from 1,000 square feet to 768 square feet being Section 5.11 of Schedule District Regulations; including the addition of M.A. Industrial Agricultural District being Section 5.07 (A) Schedule District Regulations; including the rezoning of the following parcels of property:

- a. A portion of property 265 West of the centerline of Pipestone Road from RIA to C2 Commercial as more particularly set forth in the Official Township Zoning Map;
- b. A parcel of property being 14.4 acres located in the Northeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 14, Town 5 South, Range 19 West from Agricultural to C2 Commercial as more particularly set forth in the Official Township Zoning Map;
- c. The rezoning of a parcel of property located in

Section 3, Town 5 South, range 18 West approximately 25 acres in size and bearing tax code number: 11-19-0003-0027-02-7 from Agricultural to M2 Industrial all as more fully set forth in the Sodus Township Official Zoning Map;

d. The rezoning of parcels 11-19-0101-005-0-7, 11-19-0101-0005-01-5, and 12 acres of 11-19-0101-0009-99-2 from Agricultural to M.A. Industrial Agricultural.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That is ordinance shall be and is hereby declared to be in full ofrect and effect, from after Thirty (30) days from passage and publishing.

---

CLARENCE STEINKE  
Sodus Township Supervisor

DATED:  
July 24, 1984

ATTEST:

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Virginia Palis, Township Clerk

	Ayes	Nays
Steinke	x	

Palis	x
Schroeder	x
Froehlich	absent
Collins	x

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 24 day of July, 1984; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 28 day of July, 1984; and that true copy of same was filed with the Berrien County Clerk on the \_\_\_\_ day of \_\_\_\_\_, 1984.

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Virginia Palis, Township Clerk

AN ORDINANCE GRANTING A FRANCHISE TO LAKELAND  
CABLEVISION, ITS SUCCESSORS AND ASSIGNS, TO OWN,  
OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE  
TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN  
ORDINANCE NO. 9

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THE TOWNSHIP OF SODUS GRANTS:

Section 1: This ordinance shall be known and may be known and may be cited as the Sodus Township Cable Television Ordinance

Section 2: Definitions – For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number, include the Plural number. The work “shall” is always mandatory and not merely directory.

- (1) “Township” is the grantee of rights under this Ordinance awarding a franchise and is known as Lakeland Cablevision, 4771 Niles Avenue, St. Joseph, Michigan 49085
- (2) “Company” is the grantee of rights under this Ordinance awarding a franchise and is known as Lakeland Cablevision, 4771 Niles Avenue, St. Joseph, Michigan 49085
- (3) “Person” is any person, firm partnership, association, corporation, company or organization of any kind.
- (4) “System” shall mean the entire installation located in the Township of Sodus.
- (5) “Regular Subscriber Service” shall mean the distribution of broad-cast television and radio, public access, educational access, and government access signals.

Section 3. Grant of Authority – The Sodus Township Board of Trustees, after due consideration and public hearing at its regular Board meeting October 13, 1987, has provided an opportunity for public participation and being satisfied as to the Company’s legal, technical character and financial and other qualifications, and the adequacy and feasibility of the Company’s construction arrangements, hereby grants to the Company a non-exclusive franchise, right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways, and public places now laid out or dedicated and all extensions thereof, and additions

thereto, in the Township; poles, wires, cables, underground conduit, manholes, and television conductors and fixtures necessary for the maintenance and operation of the Township of a Cable Television System for the purpose of distributing television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purpose herein set forth.

Section 4: Liability and Indemnification – The Company shall pay and by its acceptance of this franchise the Company expressly agrees that it will pay all damages and penalties which the Township may legally be required to pay as a result of the Company's negligence in the installation, operation or maintenance of the Cable Television system authorized herein. The Township shall notify the Company's representative within fifteen (15) days after the presentation of any claims or demands to the Township, either by suit or otherwise, made against the Township on account of any negligence or contract as aforesaid on the part of the Company. The Company shall carry and pay the cost of the following liability insurance in support of its undertaking to hold the Township harmless from loss sustained by either on account of the negligence of the Company, in at least the amounts indicated below, for injury to or death of persons and injury to or destruction of property:

- (1) \$500,000.00 for property damage to any one person.
- (2) \$500,000.00 for property damage to any one accident.
- (3) \$500,000.00 for personal injury to any one person.
- (4) \$500,000.00 for personal injury in any one accident.

The Company shall comply with all the provisions of the Workmen's Compensation Law of Michigan.

Section 5: Subscriber Complaints – In order to resolve complaints regarding cable television operations, the Company shall maintain a local office presently located at 4771 Niles Road, St. Joseph, Michigan 49085, or agent so that cable television maintenance service shall be available to subscribers upon telephone request between the hours of 9:00 A.M. and 6:00 P.M. of each day that the Company is transmitting signals to subscribers. The Company shall attempt to resolve any complaints concerning its cable television operation as expeditiously as possible. Should a subscriber have an un resolved complaint regarding quality of service, equipment malfunction, or similar matters, the subscriber shall be entitled to file his complaint with the Township Clerk, who shall have primary responsibility and authority for the continuing administration of the franchise and the procedures for resolving complaints. The Clerk may also demand that a Company representative meet with a representative of the Township Board to discuss and resolve such complaint, such meeting to be held within thirty (30) days after demand therefore. The Company reserves the right to make final determination of the disputed claim under this Section. The



Company shall notify each subscriber, at the time of initial subscription to the service of the Company, of the procedures for reporting and resolving such complaints.

Section 6: Condition on road occupancy

(1) The Company may enter into one or more contracts with any electric utility, telephone company or the owner or lessee of any poles or posts located within the Township to whatever extent such contract or contracts may be expedient and of advantage to the Company in furnishing the Service covered by this Franchise to its subscribers.

(2) The Company system, poles, wires and appurtenances shall be located, erected and maintained so that none of it shall endanger or interfere with the lives of persons, or interfere with any improvements the Township may deem proper to make, or hinder unnecessarily or obstruct the free use of the streets, alleys, bridges, easements or public property.

Section 7: Approval of Transfer – The Company shall not sell or transfer its system to another, nor transfer any rights under this Franchise to another without approval by the Township, provided that no sale or transfer shall be effective until the vendee, assignee or lessee has filed with the appropriate office of the Township an instrument duly executed, reciting the fact of such sale, assignment or lessee, accepting the terms of this franchise and agreeing to perform all conditions thereof. The system shall not be sold or transferred by the Company to any outside interest except upon written notice to the Township not less than ninety (90) days before such transfer of sale, and such approval or disapproval by the Township shall not be unreasonably withheld and failure to act within sixty (60) days from receipt of the notice will be evidence of approval. The provisions of this Section 7 shall not apply to the collateral assignment of this Franchise for financing purposes.

Section 8: Payments to the Township

(1) The Company shall, during each year of operation under this Franchise, pay to the Township of Sodus, two (2%) per cent of the annual gross subscriber receipts received by the Company for cable television services rendered to subscribers located within the Township and submit an annual report showing the Company's annual gross subscriber receipts during the preceding year and such other information as the Township shall reasonably request with respect to properties and expenses related to the Company's services within the Township for such period.

(2) Annual gross subscriber receipts shall mean all compensation and

other consideration in any form whatever and any contributing grant or subsidy received directly or indirectly by the Company from the supplying of regular subscribers service, that is monthly service sold to all the Company's subscribers, but shall not include revenues derived from per-program or per-channel charges, leased channel revenues, advertising revenue, nor shall it include charges, to each subscriber for installation, connection, or relocation, or any other income derived from the cable television system. Provider however, that the term "Gross Annual Subscriber Receipts" shall not include any taxes on the services furnished by the Company which are or may be imposed directly upon any subscriber by any Township, State or other government unit and collected by the Company for such government unit.

Section 9: Records and Reports – The company shall keep full, true, accurate and current books of account reflecting its investment and its operations under this Franchise, which books and records shall be kept and maintained by the Company and shall be made available for inspection and copying by the Chairman of the Finance Committee of the Township of Sodus, or his authorized representative, at all reasonable times.

Section 10: Rates – The Company's initial monthly rate for regular subscriber service rendered to residential subscribers shall be \$13.95. Installation and service charges for additional outlets shall be at the discretion of the Company.

Section 11: Procedures – The Company may at any time and from time to time change its monthly rates: provided that the Company shall be required to give the Township Board written notice of any proposed rate increase at least sixty (60) days prior to the proposed effective date of such rate increase.

The Company may impose a late charge not to exceed \$1.00 per month for each invoice not paid within thirty (30) days after mailing, to cover the extra expense involved in handling delinquent payments.

Section 12: Free Connection and Service – Upon request, the Company shall furnish free of charge, outside connections and service to hospitals within the township and to all public and parochial schools located within the Township and to Township buildings, when other connections are being made within the particular areas of any such hospitals, schools or public buildings; provided however, any and all inside wiring or work shall be done at the expense of the hospital, school, or Township, as the case may be, and provided that a service cable has previously been installed in reasonable proximity to such hospital, school or public building.

Section 13: Franchise Term – The franchise granted the Company herein shall terminate fifteen (15) years from date of grant, and may be renewed for a successive fifteen (15) year term under the same terms and conditions as contained herein, or on such different or additional terms and conditions as may be lawfully specified by the Township Board and as are consistent with the requirements of Rule 76.31 (a) of the Federal Communications Commission. The Company shall give not later than ninety (90) days prior to the end of the original term, notice of renewal to the Township, and if the Township fails to respond upon expiration of the ninety (90) days, then said Franchise shall be considered renewed for a successive fifteen (15) year term.

Section 14: Commencement of Construction – Upon grant of this Franchise to construct and maintain a cable television system in the Township of Sodus, the Company may enter into contracts with public utilities, telephone company or other for the use of poles and posts necessary for proper installation of the system, obtain right of way permits from appropriate State, County and Federal officials necessary to cross highways or roads under their respective jurisdictions to supply main trunk lines from the Company's receiving antennas obtain permission from the Federal Aviation Authority to erect and maintain antennas suitable to the needs of the system and its subscribers and obtain whatever other permits a Township, County, State or Federal Agency may require. In the construction, installation and maintenance of its system, the Company will use steel, cable, and electronic devices, all of specialized and advanced design and type which should be subject to the approval of the Township Engineer, and in the operation of its system, the Company will employ personnel with training, skill and experience in electronics and communications. However, neither material nor personnel of this sort may be available to the Company for its system in the event of a war or other similar national emergency.

Section 15: Construction Schedule – No later than December 31, 1988 (as to Phase 1) and no later than December 31, 1989 (as to Phase 2) as shown on the attached map, the Company shall extend energized trunk cable to the extent economically feasible. Provided, however, that the Company shall only be required to extend trunk cable to those other sections of its franchise area which meets the general density standards in excess of ten (10) single household subscriber connections per one thousand fifty-six (1056) strand feet of cable or fifty (50) single household subscriber connections per stand mile of cable. Measurement of the general density standard for service to any area added to the Company's existing franchise area during the term of the franchise shall be made from the closest existing point of the Company's cable television system.

(1) Whenever the Company shall receive a request for service from at least ten such subscribers within 1056 feet of its distribution cable, it shall extend its system to such subscribers at no cost to the subscriber for system extension other than the usual connection fees for all subscribers, provided that such extension

is technically and physically feasible. The 1056 feet shall be measured in extension length of the Company's cable required for service located within the public way or easement and shall not include length of necessary service drop to the subscriber's residence or premise.

(2) No person, firm or corporation in the Company's franchise area shall be arbitrarily refused service. However, for unusual circumstances, such as requirements for underground cable, or more than 200 feet of distance from distribution cable to connection of service to subscribers, or a density of less than ten single household subscriber connections per 1056 feet of strand plant, in order that existing subscribers shall not be unfairly burdened, service may be made available on the basis of an installation or connection payment by the prospective subscriber(s) to the Company, to reimburse the Company for its costs of materials, labor and easements.

(3) If the Company does not, of its own accord, proceed to secure the permits and build line extension at such time as the franchise area reaches the required density, the Township Board may request the Company to build a plant and deliver service, however, the Company may be permitted to show cause why such extension or expansion should not or cannot be constructed.

Section 16: Modification of FCC Rules – Consistent with the requirements of Rule 76.31 (a) (6) of the Federal Communications Commission, any modification of Rule 76.31 resulting from amendment thereto by the Federal Communications Commission shall to the extent applicable be considered as a part of this franchise as of the effective date of the amendment made by the FCC and shall be incorporated in such franchise by specific amendments thereto by the lawful action of the Township Board within one (1) year from the effective date of the Federal Communications Commission's amendment or at the time of renewal of this franchise, whichever occurs first.

Section 17: Publication Costs – The Company shall assume the costs of publication of this franchise as such publication is required by law. A bill for publication costs shall be presented to the Company by the appropriate Township officials which shall be paid at that time by the Company.

Section 18: Activities Prohibited – The Company shall not allow its cable or other operations to interfere with television reception of persons not

served by the Company, nor shall the systems interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the Township.

Section 19: Limited Purpose – This franchise is granted by the Township Board of the Township of Sodus, to the Company purely for the purpose of using easements, streets, and highways of the Township to erect and construct the Company’s system and is not intended to convey any copyright or patent privileges whatsoever.

Section 20; Termination – This Ordinance may be declared null and void and the franchise terminated, and the rights and privileges hereby granted forfeited in case the Company, its successors and assigns, shall refuse or neglect to perform the conditions hereunder specified on its part to be performed. Provided however, the Township shall give the Company written notice of any default on the part of the Company and the Company shall have a reasonable time to correct such default prior to any termination of the Company’s franchise.

Section 21: Bond – The Company agrees to execute and deliver to the Township upon demand by the Township, a good and sufficient bond, with corporate surety, in a sum to be agreed upon by the parties, conditioned upon the Company’s obligation to remove all poles installed by the Company located in the Township upon termination of this franchise.

Section 22: Separability – If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity for the remaining portions hereof.

Section 23: Effective Date – This Ordinance is hereby declared to have been approved by the Township of Sodus, County of Berrien, State of Michigan, at a regular meeting of the Township Board held on October 13, 1987, and shall take effect and be in force from and after the date of publication.

Motion to adopt by\_\_\_\_\_

Motion supported by\_\_\_\_\_

Ayes\_\_\_\_\_Nays\_\_\_\_\_Absentions\_\_\_\_\_Absent\_\_\_\_\_

Date approved by Township Board\_\_\_\_\_

\_\_\_\_\_  
Clarence Steinke, Supervisor

\_\_\_\_\_  
Virginia Palis, Clerk

SODUS TOWNSHIP CEMETERY ORDINANCE  
ORDINANCE NO. 10

AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE BY ESTABLISHING REGULATIONS RELATING TO THE OPERATION, CONTROL, AND MANAGEMENT OF CEMETERIES OWNED BY THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN. TO PROVIDE PENALTIES FOR THE VIOLATION OF SAID ORDINANCE; AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICE THEREWITH:

TOWNSHIP OF SODUS, COUNTY OF BERRIEN, MICHIGAN, ORDAINS:

Section 1: TITLE

This Ordinance shall be known and cited as the Sodus Township Cemetery Ordinance.

Section 2: DEFINITIONS OF CEMETERY LOTS AND BURIAL SPACES

- A. A cemetery lot shall consist of burial spaces sufficient to accommodate from one to five burial spaces.
- B. A burial space shall consist of a land area 48” inches wide and ten’ feet in length.
- C. An infant of up to one year or stillborn may be placed at the foot of an adult burial plot, or in areas set aside specifically for such burials, if available.

Section 3: SALE OF LOTS OR BURIAL SPACES

- A. Residential cemetery lots or burial spaces shall be sold only to residents of the Township for the purpose of the burial of such purchaser or his or her heirs at law or next of kin. No sale shall be made to funeral directors or others than as heretofore set forth. The township Clerk, however, is hereby granted the authority to sell non-residential burial spaces and to vary the aforesaid restriction on sales where the purchaser discloses sufficient personal reason for burial within the Township through previous residence in the Township or relationship to persons interred therein.

- B. All such sales shall be made on a form approved by the Township Board which grants a right of burial only and does not convey any other title to the lot or burial space sold. Such form shall be executed by the Township Clerk.
  
- C. Residential burial rights may only be transferred to those persons eligible to be original residential purchasers of cemetery lots or burial spaces within the Township. Transfers to non-residents of burial spaces must pay the additional fee based upon the current price. The transfer may be effected only by endorsement of an assignment of such burial permit upon the original burial permit form issued by the Township Clerk, approved by said Clerk, and entered upon the official record of said Clerk. Upon such assignment, approval and record, said Clerk shall issue a new burial permit to the assignee and shall cancel and terminate upon such records, the original permit thus assigned.

Section 4: FEE SCHEDULES

- A. Fee Schedules may be obtained from the Township Clerk. The Township Board by resolution may periodically alter the fee schedule for cemetery maintenance and acquisition.
  
- B. The opening and closing of any burial space, prior to and following a burial therein, and including the interment of ashes, shall be at a cost to be determined from time to time by Resolution of the Township Board, payable to the Township.
  
- C. No burial spaces shall be opened and closed except under the direction and control of the cemetery sexton. This provision shall not apply to proceedings for the removal and reinterment of bodies and remains, which matters are under the supervision of the local health department.

Section 5: MARKERS OR MEMORIALS

- A. All markers or memorials must be of stone or other equally durable composition.
  
- B. Any large upright monuments must be located upon a suitable foundation to maintain the same in an erect position.
  
- C. No mausoleum type memorials are allowed.
  
- D. Only one above ground monument, marker or memorial shall be permitted

per burial space.

- E. The footing or foundation upon which any monument, marker or memorial must be placed shall be constructed by the Sexton at cost to the owner of the burial right.

Section 6: INTERMENT REGULATIONS

- A. Only one person may be buried in a burial space except for an adult and infant or two children buried at the same time.
- B. Not less than 36 hour notice shall be given in advance of any time of any funeral to allow for the opening of the burial space.
- C. The appropriate permit for the burial space involved, together with appropriate identification of the person to be buried therein, where necessary, shall be presented to either the cemetery section or the Township Clerk prior to interment. Where such permit has been lost or destroyed, the Township Clerk shall be satisfied, from his or her records, that the person to be buried in the burial space is an authorized and appropriate one before any interment is commenced or completed.
- D. All graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved.
- E. Only below ground interment will be allowed.

Section 7: GROUND MAINTENANCE

- A. No grading, leveling, or excavating upon a burial space shall be allowed without the permission of the cemetery sexton or the Township Clerk.
- B. No shrubs, or trees of any type shall be planted without the approval of the cemetery sexton or the Township Clerk. Any of the foregoing items planted without such approval may be removed by the Township or the cemetery sexton.
- C. The Township Board reserves the right to remove or trim any tree, plant or shrub located within the cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- D. Mounds which hinder the free use of a lawn mower or other gardening



apparatus are prohibited.

- E. The cemetery sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers therefore that through decay, deterioration, damage or otherwise become unsightly, a source of litter, or a maintenance problem.
- F. Surfaces other than earth or sod are prohibited.
- G. All refuse of any kind or nature including, among others, dried flowers, wreaths, papers, and flower containers must be removed or deposited in containers located within the cemetery.

Section 8: FORFEITURE OF VACANT CEMETERY LOTS OR BURIAL SPACES

Cemetery lots or burial spaces sold after the effective date of the Ordinance and remaining vacant 40 years from the date of their sale shall automatically revert to the Township upon occurrence of the following events:

- A. Notice shall be sent by the Township Clerk by First Class mail to the last known address of the last owner of record informing him of the expiration of the 40 year period and that all rights with respect to said lots or spaces will be forfeited if he does not affirmatively indicate in writing to the Township Clerk within 60 days from the date of mailing of the within notice his desire to retain said burial rights.
- B. No written response to said notice indicating a desire to retain the cemetery lots or burial spaces in question is received by the Township Clerk from the last owner of record of said lots or spaces or his heirs or legal representative within 60 days from the date mailing of said notice.

Section 9: REPURCHASE OF LOTS OR BURIAL SPACES

The Township will repurchase any cemetery lot or burial space from the owner for the original price paid the Township upon written request of said owner or his legal heirs or representatives.

Section 10: RECORDS

The Township Clerk shall maintain records concerning all burials, and

any perpetual care fund, separate and apart from any other records of the Township and the same shall be open to public inspection at all reasonable business hours.

Section 11: VAULT

All burials shall be within a standard concrete vault or other State approved material, installed or constructed in each burial space before interment.

Section 12: PENALTIES

Any person, firm or corporation who violates any of the provisions of the within Ordinance shall be guilty of a misdemeanor and shall be subject to a fine of up to \$100.00 and/or imprisonment for up to 90 days in jail as may be determined by a court of competent jurisdiction. Each day that a violation continues to exist shall constitute a separate offense. Any criminal prosecutions hereunder shall not prevent civil proceedings for abatement and termination of the activity complained of.

Section 13: SEVERABILITY

The provisions of the within Ordinance are hereby declared to be severable and should any provision, section or part thereof be declared invalid or unconstitutional by any court of competent jurisdiction, such decision shall only affect the particular provision, section or part thereof involved in such decision and shall not affect or invalidate the remainder of such Ordinance which shall continue in full force and effect.

Section 14: EFFECTIVE DATE

This Ordinance shall take effect on October 1, 1991. All Ordinances or parts of ordinances in conflict herewith are hereby repealed.

Adopted at a regular meeting on August 13, 1991  
Ayes Hauch, Dukesherer, Carlson, Palis and Grajauskis  
Nay, none

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Ronald L. Hauch, Sodus Township Supervisor

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Virginia Palis, Sodus Township Clerk

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 13<sup>th</sup> day of August, 1991; that a notice

of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 27<sup>th</sup> day of August, 1991; and that true copy of same is filed in the Sodus Township Clerk's office.

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Virginia Palis, Township Clerk

1991 EDITION OF BUILDING CODE  
ORDINANCE NO. 11

An ordinance of Sodus Township adopting the 1991 edition of the Uniform Building Code and the 1991 edition of the Uniform Building Code Standards regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings or structures in Sodus Township; providing for the issuance of permits and collection of fees therefore; providing for penalties for the violation thereof, repealing Ordinance No. 5 of Sodus Township and all other ordinances and parts of the ordinances in conflict therewith.

The Township Board of Sodus Township does ordain as follows:

Section 1. That certain documents, one (1) copy of which is on file and is open for inspection of the public in the office of the Township Clerk of Sodus Township, being marked and designated as:

Uniform Building Code, 1991 Edition, published by the International Conference of Building Officials, including Appendix Chapters 1 Division I, Chapter 11, 12, 23 Division I & Division IV, 26, 29, 32, 49, 53, 55.

Uniform Building Code Standards, 1991 Edition, published by the International Conference of Building Officials.

be and the same are hereby adopted as the code of Sodus Township for regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings or structures in Sodus Township providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such Uniform Building Code, 1991 Edition, and Uniform Building Code Standards, 1991 Edition, published by the International Conference of Building Officials which are on file in the office of Sodus Township are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.

Section 3. That Ordinance No. 11 of Sodus Township entitled and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Township Board hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases by declared unconstitutional.

Section 5. That the Township Clerk is hereby ordered and directed to cause this ordinance to be published.

Section 6. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect 30 days from and after the date of its final passage and adoption.

ORDINANCE FOR ADOPTION OF THE  
UNIFORM MECHANICAL CODE

ORDINANCE NO. 12

An ordinance of the Township of Sodus regulating the erection, installation, alteration, repair, relocation, replacement, addition to use or maintenance of any heating, ventilating, cooling, refrigeration systems, incinerators, or other miscellaneous heat producing appliances within the Township of Sodus; providing for the issuance of permits and collection of fees therefore; repealing all ordinances and parts of ordinances in conflict herewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as “Uniform Mechanical Code”, including Appendix A, B, C, and D, 1991 edition, published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, be and the same is hereby adopted as the code of the Township of Sodus for regulating the erection, installation, alteration, repair, relocation, replacement, addition to use or maintenance of any heating, ventilating, cooling, refrigeration systems, incinerators, or other miscellaneous heat producing appliances with the Township of Sodus providing for issuance of permits and collection of fees therefore: and such “Uniform Mechanical Code”, 1991 edition, published by the International Conference of Building Officials and International Association of Plumbing and Mechanical Officials, on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full effect, from after thirty (30) days from passage and publishing.

\_\_\_\_\_  
Ron Hauch  
Sodus Township Supervisor

\_\_\_\_\_  
Virginia Palis  
Township Clerk

DATED: July 13, 1993

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 13<sup>th</sup> day of July, 1993; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 20<sup>th</sup> day of July.

\_\_\_\_\_  
Virginia Palis, Township Clerk

DATED: APRIL 13, 1993

\_\_\_\_\_  
RONALD L. HAUCH  
SODUS TOWNSHIP SUPERVISOR

	Ayes	Nays
Hauch	x	
Palis	x	
Dukesherer	x	
Grajauskis	x	
Carlson	x	

\_\_\_\_\_  
VIRGINIA PALIS, TOWNSHIP CLERK

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 13<sup>th</sup> day of April, 1993; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 19 day of April, 1993; and that true copy of same was filed with the Berrien County Clerk on the 19<sup>th</sup> day of April, 1993.

\_\_\_\_\_  
Virginia Palis

ORDINANCE FOR ADOPTION OF THE  
NATIONAL ELECTRICAL CODE

ORDINANCE NO. 13

An ordinance of the Township of Sodus regulating the installation of electric conductors and equipment within or on public and private buildings or other structures, including mobile homes, recreational vehicles, and floating dwelling units; and other premises such as yards, carnivals, parking and in other lots, industrial substations and regulating the installation of conductors that connect to the supply of electricity, the installation of optical fiber cable; repealing all ordinances parts of the ordinances in conflict therewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designed as “National Electrical Code”, 1993 edition, published by the National Fire Protection Association, be the same is hereby adopted as the code of the Township of Sodus for regulating the installation of electric conductors and equipment within or on public and private buildings or other structures, including mobile homes, recreational vehicles, and floating dwelling units; and other premises such as yards, carnivals, parking and in other lots, industrial substations and regulating the installation of conductors that connect to the supply of electricity, the installation of other outside conductors on the premises, and that the installation of optical fiber cable; in the Township of Sodus; providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such “National Electrical Code”, 1993 edition, published by the National Fire Protection Association, on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such



decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full effect, from after Thirty (30) days from passage and publishing.

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Ron Hauch  
Sodus Township Supervisor

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Virginia Palis  
Township Clerk

DATED: July 13, 1993

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 13<sup>th</sup> day of July, 1993; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 20<sup>th</sup> day of July, 1993.

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Virginia Palis, Township Clerk

ORDINANCE FOR ADOPTION OF THE  
NATIONAL PLUMBING CODE

ORDINANCE NO. 14

An ordinance of the Township of Sodus, regulating the design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, storm water and sewage disposal in buildings; the design and installation of gas piping, chilled water piping in connection with refrigeration process and comfort cooling, and hot water piping for fire sprinklers and standpipes, water and drainage connections to such installations, providing for the issuance of permits and collection of fees therefore, repealing all ordinances and parts of the ordinances in conflict therewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as “BOCA Basic National Plumbing Code”, 1991 edition, including Appendix Chapters, A, B, C, D, and E, published by the Building Officials and Code Administrators International, Inc., be and the same is hereby adopted as the code of the Township of Sodus for regulating the design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, storm water and sewage disposal in buildings; the design and installation of gas piping, chilled water piping in connection with refrigeration process and comfort cooling, and hot water piping in connection with building heating, design and installation of piping for fire sprinklers and standpipes, water and drainage connections to such installations, in the Township of Sodus providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such “BOCA Basic National Plumbing Code”, 1991 edition, published by the Building Officials and Code Administrators International, Inc., on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed EXCEPT that provisions of Ordinance No. 12 adopting the “Uniform Mechanical Code”, which may be in conflict herewith are specifically not repealed, and the provisions of said Ordinance No. 12 shall prevail when a conflict between said ordinance and the within ordinance exists.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full effect, from after thirty (30) days from passage and publishing.

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Ron Hauch  
Sodus Township Supervisor

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Virginia Palis  
Township Clerk

DATED: July 13, 1993

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 13<sup>th</sup> day of July, 1993; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 20<sup>th</sup> day of July, 1993.

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Virginia Palis, Township Clerk

FRANCHISE  
MICHIGAN GAS UTILITIES

ORDINANCE NO. 15

An ordinance granting to UTILICORP UNITED INC., A Delaware Corporation doing business in the State of Michigan under the assumed name Michigan Gas Utilities, its successors and assigns, the right, power, authority and permission to use the highways, streets, alleys and other public places of the Township of Sodus, County of Berrien, State of Michigan, for the purpose of laying and maintaining gas pipes, mains, conduits, valves, drips and all necessary appurtenances in, under and along the highways, streets, alleys and other public places, of said township, and the right, power and permission of conduct and operate a general gas business and distribution system in said Township of Sodus, County of Berrien, State of Michigan for a period of thirty (30) years.

The Township Board of the Township of Sodus, County of Berrien, State of Michigan hereby ordains:

Section. Granting of Franchise to Use Highways, Streets, Alleys and Public Places.

The Township of Sodus, County of Berrien, State of Michigan, (hereinafter called "Grantor"), hereby grants to UtiliCorp United Inc., a Delaware Corporation doing business in the State of Michigan under the assumed name Michigan Gas Utilities, (hereinafter called "Grantee"), its successors and assigns, a franchise to use the highways, streets, alleys and other public places of the Township of Sodus, County of Berrien, State of Michigan, for the purpose of constructing, maintaining and operating a gas distribution system in said Township with full right, power and authority to establish, construct, maintain, extend and operate a plant, stations, mains, pipes, conduits, valves, drips and all other appurtenances, apparatus and appliances within the corporate limits of the Township of Sodus, County of Berrien, State of Michigan, for the purpose of supplying and distributing to said Township and its inhabitants gas for heating and other purposes and, for such purposes, to enter upon and use the highways, streets, alleys, and public lands of said Township and lay, maintain, operate, repair and extend therein, through and thereunder such mains, pipes, conduits, valves, drips, apparatus, appliances and other appurtenances as may be necessary and proper for the distribution of gas throughout and beyond said Township and for the purpose of conducting and operating a gas business in said Township subject to the terms and conditions hereinafter provided.

Section 2. Non-Disturbance of Public Travel; Restoration; Construction Maintenance

In laying its pipes, mains and other appurtenances and repairing and maintaining the same, Grantee shall interfere as little as possible with public travel. After opening any portion of the highways, streets, alleys or other public place, Grantee shall within a reasonable time restore the same as nearly as possible to the same condition as prevailed before opening. While any portion of the highways, streets, alleys or other public place is open, Grantee shall maintain reasonable barriers and lights at night and other warnings to the users of said highways, streets, alleys or other public place.

Section 3. Hold Harmless

Grantee shall at all times hold Grantor harmless from any loss, damage and expense of any kind on account of laying, constructing, maintenance, and use of said mains, pipes, conduits and other appurtenances.

Section 4. Rates Established by Michigan Public Service Commission

The rates to be charged by Grantee on all rules of service shall be those which are established from time to time by the Michigan Public Service Commission or such other body which shall succeed to the jurisdiction, rights, powers and authority of said Commission.

Section 5. Term; Effective Date

The rights granted in this franchise shall continue in full force and effect for a period of thirty (30) years from the effective date thereof. The effective date of this franchise shall be the date of the acceptance of the franchise by Grantee, which acceptance shall be filed by the Grantee, in writing, within sixty (60) days after the enactment of this ordinance.

Section 6. Franchise Revocable; Irrevocability Upon Approval of Electors

The franchise herein granted shall be revocable at the will of the governing body of this Township, PROVIDED, however, that the same shall become irrevocable if and when confirmed by a majority of the electors voting upon the question at the next general election or at any special election called for that purpose. Such special election shall be held at the request of said Grantee.

Section 7. Expenses of Election Paid by Grantee

In the event of a special election, the expenses thereof shall be deposited with the Clerk of this Township by the Grantee.

Section 8. Ordinance Effective Date

This ordinance shall take effect on the day following the date of publication of the ordinance.

Section 9. Publication

The Township Clerk is hereby directed to cause a true copy of this ordinance to be published in the Herald-Palladium, a newspaper circulating within the Township within 30 days hereof.

Section 10. Recording of Ordinance

Within one week after the publication of this ordinance, the Township Clerk shall record the ordinance in the Book of Ordinances kept by the Clerk for such purpose. Such record shall include the date of passage hereof, the names of the members voting hereon and how each member voted. An attested copy of the Ordinance shall also be filed with the Berrien County Clerk within one week after the publication.

Presented by: Jack Dukesherer

Seconded by: Marie Grajauskis

Voting in Favor: Duane Carlson

Jack Dukesherer

Ronald Hauch

Virginia Palis

Marie Grajauskis

Voting Against: none

I hereby attest that the foregoing Ordinance was adopted by the Township Board of the Township of Sodus, County of Berrien, State of Michigan at a regular meeting held on the 12<sup>th</sup> day of April, 1994

Dated: April 12, 1994

\_\_\_\_\_  
Virginia Palis  
Sodus Township Clerk

I further certify that the foregoing Ordinance was published and filed as follows:

Published : The Herald Palladium

Date of Publication: \_\_\_\_\_  
(newspaper Proof of  
Publication attached)

Date of Filing with the  
Berrien County Clerk: April 26, 1994

Ordinance No: 15 Date recorded in the  
Township Book of Ordinances: April 13, 1994

Dated: April 25, 1994

\_\_\_\_\_  
Virginia Palis  
Sodus Township Clerk

ORDINANCE FOR ADOPTION OF THE  
UNIFORM BUILDING CODE 1994  
ORDINANCE NO. 16

An ordinance of Sodus Township adopting the 1994 edition of the Uniform Building Code, Volumes 1, 2 and 3, regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings or structures in Sodus Township; providing for the issuance of permits and collection of fees (delete 1994 fee schedule and use fee schedule from the 1991 edition of the Uniform Building Code) therefore; providing for penalties for the violation thereof, repealing Ordinance No. 11 of Sodus Township and all other ordinances and parts of the ordinances in conflict therewith.

The Township Board of Sodus Township does ordain as follows:

Section 1. That certain documents, two (2) copies of which are on file and are open for inspection of the public in the office of the Building Inspector of Sodus Township, being marked and designated as:

Uniform Building Code, 1994 Edition, published by the International Conference of Building Officials, including the generic fire-resistive assemblies listed in the Fire Resistance Design Manual, Thirteenth Edition, dated April 1992, published by the Gypsum Association as referenced in Tables 7-A, 7-B, and 7-C (also reference Appendix Chapter 12, Division II, if adopted) of the specified Uniform Building Code, including Appendix Chapters 3, 4, 9, 10, 11, 12, 13, 15, 18, 29, 31, 33, 34.

Structural Welding Code – Reinforcing Steel, AWS D1.4-92 (U.B.C. Standard 19-2) and the American National Standard for Accessible and Useable Buildings and Facilities, A117.1 – 1992 (see Uniform Building Code Section 1101.2), published by the Council of American Building Officials as modified or amended in the Uniform Building Code referenced herein;

be and the same are hereby adopted as the code of Sodus Township for regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings or structures in Sodus Township providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such Uniform Building Code, 1994 Edition, Volumes 1, 2, and 3 published by the International Conference of Building Officials, and the secondary publications referenced above, all of which are on file in the office of Sodus Township are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. (Incorporate penalties for violations.)

Section 3. That Ordinance No. 11 of Sodus Township entitled 1991 Uniform Building Code and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. That if any section, subsection, sentence, clause or phrase



of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Township Board hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That the Township Clerk is hereby ordered and directed to cause this ordinance to be published.

Section 6. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect 30 days from and after the date of its final passage and adoption.

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Ronald Hauch  
Sodus Township Supervisor

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Virginia Palis  
Township Clerk

DATED: Nov 26, 1996

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 26 day of Nov., 1996; that a notice of said adoption giving the regulatory effects of same, was published in the Herald-Palladium on the 11 day of Dec., 1996.

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Virginia Palis, Township Clerk

ORDINANCE FOR ADOPTION OF THE  
NATIONAL PLUMBING CODE

ORDINANCE NO. 17

An ordinance of the Township of Sodus regulating the design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, storm water and sewage disposal in buildings; the design and installation of gas piping, chilled water piping in connection with refrigeration process and comfort cooling, and hot water piping for fire sprinklers and standpipes, water and drainage connections to such installations, providing for the issuance of permits and collection of fees therefore; repealing all ordinances and parts of the ordinances in conflict therewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as “BOCA Basic National Plumbing Code”, 1991 edition, including Appendix Chapters, A, B, C, D, and E, published by the Building Officials and Code Administrators International, Inc., be and the same is hereby adopted as the code of the Township of Sodus for regulating the design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, storm water and sewage disposal in buildings; the design and installation of gas piping, chilled water piping in connection with refrigeration process and comfort cooling, and hot water piping in connection with building heating, design and installation of piping for fire sprinklers and standpipes, water and drainage connections to such installations, in the Township of Sodus providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such “BOCA Basic National Plumbing Code”, 1991 edition, published by the Building Officials and Code Administrators International, Inc., on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed EXCEPT that provisions of Ordinance No. 19 adopting the “Uniform Mechanical Code”, which may be in conflict herewith are specifically not repealed, and the provisions of said Ordinance No. 19 shall prevail when a conflict between said ordinance and the within ordinance exists.

Section 3. That the Township Clerk shall certify to the adoption of

this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full effect, from after thirty (30) days from passage and publishing.

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Ron Hauch  
Sodus Township Supervisor

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Virginia Palis  
Township Clerk

DATED: Nov. 26, 1996

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 26 day of Nov., 1996; that a notice of said adoption giving the regulatory effects of same, was published in the Herald Palladium on the 11 day of Dec., 1996.

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Virginia Palis, Township Clerk

ORDINANCE FOR ADOPTION OF THE  
NATIONAL ELECTRICAL CODE

ORDINANCE NO. 18

An ordinance of the Township of Sodus regulating the installation of electric conductors and equipment within or on public and private buildings or other structures, including mobile homes, recreational vehicles, and floating dwelling units; and other premises such as yards, carnivals, parking and in other lots, industrial substations and regulating the installation of conductors that connect to the supply of electricity, the installation of optical fiber cable; repealing all ordinances parts of the ordinances in conflict therewith.

The Board of Trustees of the Township of Sodus does ordain as follows:

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designed as “National Electrical Code”, 1993 edition, published by the National Fire Protection Association, be the same is hereby adopted as the code of the Township of Sodus for regulating the installation of electric conductors and equipment within or on public and private buildings or other structures, including mobile homes, recreational vehicles, and floating dwelling units; and other premises such as yards, carnivals, parking and in other lots, industrial substations and regulating the installation of conductors that connect to the supply of electricity, the installation of other outside conductors on the premises, and that the installation of optical fiber cable; in the Township of Sodus; providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such “National Electrical Code”, 1993 edition, published by the National Fire Protection Association, on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more

sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full effect, from after Thirty (30) days from passage and publishing.

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Ron Hauch  
Sodus Township Supervisor

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Virginia Palis  
Township Clerk

DATED: Nov. 26, 1996

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 26 day of November, 1996; that a notice of said adoption giving the regulatory effects of same, was published in the Herald Palladium on the 11 day of Dec., 1996.

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Virginia Palis, Township Clerk

ORDINANCE FOR ADOPTION OF THE  
UNIFORM MECHANICAL CODE

ORDINANCE NO. 19

An ordinance of the Township of Sodus regulating the erection, installation, alteration, repair, relocation, replacement, addition to use or maintenance of any heating, ventilating, cooling, refrigeration systems, incinerators, or other miscellaneous heat producing appliances within the Township of Sodus; providing for the issuance of permits and collection of fees therefore; repealing all ordinances and parts of ordinances in conflict herewith.

The Board of Trustees of the Township of Sodus does ordain as follows;

Section 1. That certain documents, three (3) copies of which are on file in the office of the Township Clerk being marked and designated as “Uniform Mechanical Code”, including Appendix A, B, C, and D, 1991 edition, published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, be and the same is hereby adopted as the code of the Township of Sodus, for regulating the erection, installation, alteration, repair, relocation, replacement, addition to use or maintenance of any heating, ventilating, cooling, refrigeration systems, incinerators, or other miscellaneous heat producing appliances within the Township of Sodus providing for issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such “Uniform Mechanical Code”, 1991 edition, published by the International Conference of Building Officials and International Association of Plumbing and Mechanical Officials, on file in the office of the Township Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. That the Township Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees of the Township of Sodus hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That this ordinance shall be and is hereby declared to be in full effect, from after thirty (30) days from passage and publishing.

---

Ron Hauch  
Sodus Township Supervisor

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Virginia Palis  
Township Clerk

DATED: Nov. 26, 1996

I, Virginia Palis, Sodus Township Clerk, hereby certify that the above ordinance was adopted on the 26 day of Nov., 1996; that a notice of said adoption giving the regulatory effects of same, was published in the Herald Palladium on the 11 day of Dec., 1996.

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Virginia Palis, Township Clerk

**LAND DIVISION ORDINANCE  
OF  
TOWNSHIP OF SODUS  
COUNTY OF BERRIEN, STATE OF MICHIGAN  
ORDINANCE NO. 20**

ADOPTED:            DECEMBER 9, 1997

EFFECTIVE:        JANUARY 16, 1998

LAND DIVISION ORDINANCE

An Ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, and Act 246 of 1945, as amended, by the township existing General Zoning 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.

TOWNSHIP OF SODUS

BERRIEN COUNTY, MICHIGAN

ORDAINS

SECTION I

TITLE

This ordinance shall be known and cited as the **Sodus Township Land Division Ordinance.**



## SECTION II

### PURPOSE

The purpose of this ordinance is to carry out the provisions of the State Land Division Act (I 967 P A 288, as amended, formerly 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 township by establishing reasonable standards for prior review and approval of land divisions within the township.

## SECTION III

### DEFINITIONS

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

- A. “Applicant” a natural person, firm, association, partnership, corporation, or combination of any of them that hold an ownership interest in land whether recorded or not.
- B. “Divided or Division” the partitioning or splitting of a parcel or tract of land by the proprietor or therefore 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 the requirements of Section 108 and 109 of the State Land Division Act.
- C. “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 parcel 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 access owned by the owner of the parcel that can provide such access.
- D. “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.
- E. “Governing body” the legislative body of a township, or board of a township.

## SECTION IV

### PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in Sodus Township SHALL NOT BE DIVIDED without the prior review and approval of **person(s) or body designed 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:

- A. An exempt split as defined in this Ordinance and the Sate Land Division Act.

## SECTION V

### APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Sodus Township Assessor, at the Sodus Township Hall during the normal business hours before making any division either by deed, land contract, lease for more than one year, or for building development:

- A. Completed application on the official Sodus Township Land Division Application form and with such additional information as may be required.
- B. Proof of fee ownership of the land proposed to be divided.
- C. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.21 1) by a land surveyor licensed by the State of Michigan, and showing the dimensions and the legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcel for vehicular traffic and utilities from existing public roads.

The applicant's option of providing a **preliminary** drawing will waive the 45 day statutory requirement for a decision on the application until such survey map and legal description are filed with the designated, person(s) or body, it may recommend that the Sodus Township Board waive the survey map requirements under certain circumstances such as in the case of farmland for farming purposes and **not** for development purposes. Whereas the foregoing **preliminary** parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed division(s) is located. An accurate legal description of all the proposed divisions, however, shall at all times be required.

If a certified survey map has not been provided the applicant shall submit a **preliminary** drawing or map to scale of not less than that provided for on the application form, include an

accurate legal description of each proposed division, showing the boundary lines dimensions and accessibility of each division from the existing or proposed public roads for automobile traffic and public utilities, for **preliminary** review, approval and/or denial by the of the designated, person(s) or body for his or her stamped approval. The applicant must then take the stamped approved preliminary map to the assessor for the application process to be started.

D. “Proof that all standards of the State Land Division Act and this Ordinance have been met.  
(See Check list accompanying this ordinance)

E. The history and specifications of any previous divisions of land of which the proposed division as a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.

F. Proof that all due and payable taxes or installments of special assessment pertaining to the land proposed to be divided are all paid in full.

G. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.

H. Unless a division creates a parcel which is acknowledged and declared to be “Not buildable” under Section VIII of the ordinance, all divisions shall result in buildable parcels containing sufficient “Buildable” area outside of the nonbuildable wetlands, flood plains, and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, etc.

I The fee as may from time to time be established by resolution of the Sodus Township Board for land division review pursuant to this ordinance to cover the cost of review of the application and administration of this Ordinance and State Land Division Act.

## SECTION VI

### PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

A. Upon receipt of a completed land division application package, the Assessor of Sodus Township shall forthwith submit the same to the designated, person(s) or body, for processing. After review, it shall approve, approve with reasonable conditions to assure compliance with applicable ordinances, or disapprove, within 45 days, and shall promptly notify the applicant of the decision and the reason for any denial. If the application package does not conform to this Ordinance and/or the State Land Division Act, the Assessor, or the designated, person(s) or body, shall return the same to the applicant for completion and refilling in accordance with this Ordinance and the State Land Division Act.

B. Any person or entity aggrieved by the decision of the designated, person(s) or body, may within 30 days of said decision appeal to the Sodus Township Zoning Board of Appeals. Sodus

Township Zoning Board of Appeals shall consider and resolve such appeal by a majority vote of said Board at its next 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.

C. A decision approving a land division is effective for 6 Mo. from the final approval by the last Board to review the land split, after which it shall be considered revoked, unless within such period the document, deed(s), land contract(s), or lease(s) is recorded with Berrien County Register of Deeds office, and a copy of the approved application is filed with the Berrien County Planning Department (Land Description office) and the Sodus Township Assessor.

D. The Sodus Township Assessor or designee shall maintain a records of all land division applications either approved or denied.

## SECTION VII

### STANDARDS FOR APPROVAL OF LAND DIVISIONS

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

A. All the parcels to be created by the proposed land division(s) fully comply with the applicable

lot (parcel), yard and area requirements of the **Sodus Township Zoning Ordinance**, including but not limited to, minimum lot (parcel) road frontage (width), minimum lot (parcel) area, minimum lot width to depth ratio, and minimum setbacks for existing building/structures.

B. The proposed land division(s) comply with all the requirements of the State Land Division Act and this Ordinance.

C. All parcels created and remaining have existing adequate accessibility, or an area available therefore to a public road for public utilities and emergency and other vehicles not less than the requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this Ordinance. In determining adequacy of accessibility, the ordinance standards applicable under the **Sodus Township Zoning Ordinance** and Berrien County Road Commission Ordinance shall be a minimum standard.

D. The ratio of depth to width of any parcel created by the division does not exceed a four(depth) to one(frontage) ratio exclusive of access roads, easements or nonbuildable parcels created under Section VIII of this Ordinance and parcels added to contiguous parcels that result

in all involved parcels complying with said ratio, if 10 acres or less. The permissible depth of a parcel created by 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 permissible minimum width(frontage) shall be as defined in the **Sodus Township Zoning Ordinance**.

E. Where accessibility is to be provided by a proposed new dedicated public road, proof that Berrien County Road Commission or Michigan Department of Transportation has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.

F. Where public water and/or sewer service is not available, at the time application for building permit is issued proof that an approved well location and approved area for a septic system and drain field(s) is available.

G. Right to Farm Act, all deeds for parcels of unplatted land within the State of Michigan must now contain the following statement, regardless of whether the parcel is located in a downtown metropolitan area or in a remote region of the upper Peninsula:

“This property may be located within a vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan right to farm act”.

## SECTION VIII

### ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISION

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

A. Where the applicant executes and records an affidavit or deed restriction with the Berrien County Register of Deeds, in a form acceptable to Sodus Township, designating the parcel as a “not buildable”. Any such parcel shall also be designated as “not buildable” in the township records, and shall not thereafter be the subject of a request to the Sodus Township Zoning Board of appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height.

B. Where, in circumstances not covered by paragraph A above, the Zoning Board of Appeals has, previous to this Ordinance, granted a variance from the lot, yard, ratio, frontage and/or are requirements with which the parcel failed to comply.

C. Where the proposed land division involves only minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance (**Sodus Township Zoning Ordinance**, or the State Land Division Act).

D. Where after due process, the Sodus Township Zoning Board of Appeals has granted a Variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.

## SECTION IX

### CONSEQUENCES OF NON COMPLIANCE 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 special 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 Section X of this ordinance, and as may otherwise be provided by law.

## SECTION X

### PENALTIES AND ENFORCEMENT

Any person who willfully violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$1000.00 or by imprisonment in the County jail for not to exceed 90 days or by both such fine and imprisonment.

Any person who willfully violates any of the provisions of this ordinance shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

## SECTION XI

### SEVERABILITY

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

## SECTION XII

REPEAL

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the **Sodus Township Zoning Ordinance**, Sodus Township Building Code, or State Land Division Act.

SECTION XIII

EFFECTIVE DATE

This ordinance shall take effect 30 days following its publication after adoption.

Adopted this   Ninth   day of   December   1997.

TOWNSHIP OF SODUS

\_\_\_\_\_, Clerk  
Virginia Palis

\_\_\_\_\_, Supervisor  
Ronald Hauch

PETITION FOR GRANT OF ELECTRIC SERVICE FRANCHISE

ORDINANCE NO. 21

TO THE Township of Sodus BOARD OF TRUSTEES, BERRIEN COUNTY, MICHIGAN.

Pursuant to the provisions of the Franchise for Use of Highways Act, 1909, PA 266, MCLA 460.601 et seq., MSA 22.171 et seq., petitioner INDIANA MICHIGAN POWER COMPANY dba AMERICAN ELECTRIC POWER (AEP) respectfully represents that:

1. Petitioner is an investor-owned utility organized under the laws of the State of Michigan for the purpose of constructing and maintaining electric production, transmission and distribution systems for service in its service territory within the State of Michigan.

2. Petitioner has continuously provided electric service to its customers residing in the Township of Sodus for a period in excess of 30 years during which period substantial and costly capital investment and construction has occurred.

3. Pursuant to the aforementioned statute, the Township of Sodus Board may grant by franchise to Petitioner the right to use the highways, streets, alleys and other public places of the township to set poles, string wires, lay pipes or conduits, and the right to operate and maintain the same, and the right to transact a local business subject to such reasonable regulations as the Board may prescribe, subject to confirmation at the next regular election or special election by a majority of the electors voting upon the question in the affirmative.

WHEREFORE, Petitioner respectfully requests that:

A. The Township of Sodus Board grant to AEP, its successor and assigns, a franchise giving AEP the right, power and authority for a period of thirty (30) years to acquire, construct, operate and maintain the necessary facilities for the production, transmission, distribution and sale of electric energy for public and private use, and to use and occupy the highways, streets, alleys, and other public places in the Township of Sodus, Berrien County, Michigan

Date: September 22, 2000

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Edwin A. Emrich  
Community Service Manager  
INDIANA MICHIGAN POWER COMPANY  
2425 Meadowbrook Road  
Benton Harbor MI 49022



## ELECTRIC FRANCHISE

An Ordinance, granting to Indiana Michigan Power Company, its successors and assigns, the right, power and authority to construct, maintain and operate lines for the transmission and distribution of electric energy on, along, across and under the highways, streets, bridges, and other public places and to operate and maintain the same and to transact a local business in the Township of Sodus, Berrien County, Michigan.

The Township Board of the Township of Sodus, County of Berrien, State of Michigan:

### ORDAINS:

#### Section I.

The Indiana Michigan Power Company, its successors and assigns (Hereinafter called "Grantee") are hereby granted the right, privilege, franchise and authority to acquire, construct, maintain and operate in, above, under, across and along the streets, thoroughfares, alleys, bridges and public places (as the same now exist and may hereafter be laid out) of the Township of Sodus, County of Berrien, State of Michigan, lines for the transmission and distribution of electric energy, either by means of overhead or underground conductors, with all the necessary or desirable appurtenances for the purpose of supply electric energy to said Township and the inhabitants thereof, and persons or corporations beyond the limits thereof, for light, heat, power, or any other purposes or purpose for which electric energy is now or may hereafter be used, and the transmission of the same within, through or across said Township of Sodus, County of Berrien, State of Michigan, subject to such reasonable regulations as the Township Board shall prescribe from time to time.

#### Section II.

All of Grantee's towers, masts, and poles shall be so placed on either side of the highways, streets, alleys and bridges as not to unnecessarily interfere with the use thereof for highway, street, alley and bridge purposes. All of Grantee's wires carrying electricity shall be securely fastened so as not to endanger or injure persons or property in said highways, streets, alleys, and bridges. All work performed by said Grantee in said highways, street, alleys, and bridges shall be done so as to minimize interference with the use thereof, and when completed, the same shall be left in as good condition as when work was commenced. The Grantee shall have the right to cut or trim trees if necessary in the conducting of such business, subject, however, to the supervision of the highway authorities. The supervision of highway authorities shall be limited to the purpose of minimizing interference with the public use of highways, streets, alleys, and bridges.

Said lines and appurtenances shall be constructed so as to interfere as little as possible with the proper lawful use of the streets, alleys, and public places. The installation of all poles, conduits, and appurtenances shall be according to industry standards and shall be subject to such reasonable regulations as shall be prescribed by said Township Board from time to time.

### Section III.

The rights, privileges and franchise hereby granted shall be in force and effect for a period of thirty (30) years from the date of the passage of this franchise ordinance, but revocable at the will of this Township Board unless approved by vote of the electors.

The rights, privileges and franchise hereby granted shall not be construed to be exclusive and the Township Board of the Township of Sodus, County of Berrien, State of Michigan, hereby reserves the power to grant similar rights, privileges and franchises to any other person or persons, firm or firms, corporation or corporations.

### Section IV.

Said Grantee shall at all times keep and save the Township free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the structures hereby authorized. In case any action is commenced against the Township on account of the permission herein granted, said Grantee shall, upon notice, defend the Township and save it free and harmless from all loss, cost, and damage arising out of such negligent construction and maintenance.

### Section V.

Whenever said Grantee shall begin the erection of any lines or equipment, it shall promptly and diligently prosecute the work to completion and leave the streets, alleys, and public places where such work is done in as good condition of repair as before such work was commenced.

### Section VI.

Whenever in this franchise, reference is made to the Township or the Grantee, it shall be deemed to include the respective successors or assigns, of either and all rights, privileges and obligations herein contained by or on behalf of said Township, or by or on behalf of said Grantee, shall be binding upon and inure to the benefit of the respective successors or assigns of said Township or of said Grantee, whether so expressed or not.

### Section VII.

This franchise shall be accepted by the Grantee within sixty (60) days from the date of the adoption of this ordinance.

### Section VIII.

This franchise shall take effect from and after its adoption, acceptance and publication as required by law.

Dated this 22<sup>nd</sup> day of May, 2001.

Township of Sodus, County of Berrien, State of Michigan.

\_\_\_\_\_  
Supervisor

\_\_\_\_\_  
Township Clerk

I hereby attest that the foregoing ordinance was adopted by the Township of Sodus, County of Berrien, State of Michigan, at a regular meeting held on May 22, 2001.

\_\_\_\_\_  
Clerk

TO THE TOWNSHIP BOARD OF THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN:

Indiana Michigan Power Company (I&M) hereby accepts the Electric Franchise granted to I&M by the Township Board on the 22<sup>nd</sup> day of MAY, 2001, which is entitled:

AND ORDINANCE, GRANTING TO INDIANA MICHIGAN POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, POWER AND AUTHORITY TO CONSTRUCT, MAINTAIN AND OPERATE LINES FOR THE TRANSMISSION AND DISTRIBUTION OF ELECTRIC ENEREGY ON, ALONG, ACROSS AND UNDER THE HIGHWAYS, STREETS, BRIDGES, AND OTHER PUBLIC PLACES AND TO OPERATE AND MAINTAIN THE SAME AND TO TRANSACT A LOCAL BUSINESS IN THE TOWNSHIP OF ROYALTON, BERRIEN COUNTY, MICHIGAN.

INDIANA MICHIGAN POWER COMPANY

Dated: 6 / 29 / 2001

\_\_\_\_\_  
Edwin A. Emrich  
Manager Community Services

AFFIDAVIT OF PUBLICATION

STATE OF MICHIGAN

COUNTY OF BERRIEN) SS

Traci Harmon, being duly sworn and says that she is Inside Sales Supervisor of The Herald-Palladium, a newspaper published, printed and circulated in the County of Berrien, State of Michigan; That the annexed printed notice has been printed and published in said newspaper 1 times, Same being on the following days, to wit:

June 4, 2001

\_\_\_\_\_  
Traci Harmon

Subscribed and sworn to me this  
11 Day of June A.D. 2001

\_\_\_\_\_  
Jennifer Ann Lyon

NOTARY PUBLIC, Berrien County, Michigan  
My commission expires 12/31 2001

SODUS TOWNSHIP  
COMMUNICATION TOWER ORDINANCE

ORDINANCE NO. 22

An ordinance to provide for the application, review, construction and maintenance of telecommunication towers for the health, safety and welfare of the residents of Sodus Township; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

This Ordinance shall be known as the “COMMUNICATION TOWER ORDINANCE”.

Section 1.01 PURPOSE The purpose of this ordinance is to provide a procedure for the application, siting, regulation, construction and operation of towers, structures and related facilities that utilize the radio frequency spectrum for the purpose of transmitting, rebroadcasting or receiving radio signals.

Section 1.02 DEFINITIONS For the purpose of this ordinance certain terms and words used herein shall have the following meanings:

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

B. Collocation shall mean the location of two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, in an effort to reducing the overall number of structures required to support wireless communication antennas within the community.

C. Feasibility of collocation. Collocation shall be deemed to be feasible for the purpose of this section where all of the following are met.

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

- c. The collocation being considered is technologically reasonable, e.g.; the collocation will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennas. And the like.
- d. The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the Township, taking into consideration the several standards contained in Section 1.05 of this ordinance.

## Section 1.03 APPLICATION FOR SPECIAL LAND USE PERMIT TO CONSTRUCT COMMUNICATION TOWERS

### A. Special Land Use Requirements

1. Permit  
No telecommunication tower shall be erected in the Township without first having acquired a permit as described in this section.
2. Application  
The owner of records shall submit an application following the steps listed in Zoning Ordinance Section 11.02 “Application Procedures”.
3. Contents  
In addition to the information required on the application form, an application submitted under this ordinance shall include:
  - a) A statement describing the efforts by the applicant utilized to determine the feasibility of collocation. If collocation is unavailable or not practical the applicant shall provide a statement that identifies the facts, characteristics and /or the circumstances which renders collocation unavailable or technically not practical for the coverage area and capacity needs. A Certified Michigan Professional Engineer must verify any such document.
  - b) A site plan prepared in accordance with the requirements of Zoning Ordinance Section 10 “Site Plan Requirements”.
  - c) An Engineering drawing of the tower design signed by a Certified Michigan Structural or Professional Engineer verifying that the tower design meets all wind load and soil bearing requirements for the intended site.
  - d) A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to insure long term, continuous maintenance to a reasonable prudent standard.

- e) The name, address and phone number of the person to contact for engineering and other notice purposes. The applicant shall continuously update this information during all times the facility is on the premises.
- f) A list of all property owners within a one-half mile radius of the proposed site.
- g) A map showing the locations, name and address of the owner(s) and/or operators of any other telecommunication tower within the Township and any other tower within a five-mile (5) radius of the proposed site, identifying any other collocation utilized on each tower.

## Section 1.04 PUBLIC HEARING REQUIREMENTS

### 1. Public Hearing

- a. Providing all of the above requirements have been satisfied, the Township Planning Commission shall hold a hearing on the site plan and special land use request as specified in Zoning Ordinance 11.02 F. Notice of the hearing shall be given by mail or personal delivery to the owners of property for which Special Land Use Permit approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. Notice of the public hearing also to be published in a newspaper of general distribution in Sodus Township. Notice to be published no more than 15 nor less than 7 days prior to the hearing.

## Section 1.05 STANDARDS FOR APPROVAL OF SPECIAL LAND USE PERMIT TO CONSTRUCT COMMUNICATION TOWERS

### 1. Qualifying Conditions

- a) The following site and develop requirements shall apply;
  - i) The proposed site must meet all front, side and rear yard setback requirements where not specifically addressed herein and any minimum road requirements that may be established.
  - ii) The use of guy wires is prohibited. All towers shall be self-supporting.
  - iii) The base of the tower shall be fenced with a six foot (6) high fence.
  - iv) Telecommunication towers shall only be located in the following districts,

R-AG, Residential Agricultural; C, Commercial; M-1, Industrial; M-2, Industrial Park; M-A, Industrial Agricultural; AG, Agricultural;

- v) Any such site that is approved shall maintain a separate access road or driveway. No other use shall be served by said driveway or road.

#### Section 1.06 SPECIAL PERFORMANCE STANDARDS

1. The tower must be set back from all property lines a distance equal to its height, **unless** engineering plans and specifications have been verified by a Certified Michigan Structural or Professional Engineer that the structural integrity of the tower will withstand high winds and impacts, and the likelihood of a tower failure is minimal. The applicant shall bear all costs associated with the engineering review.
  - a) Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than thirty feet (30').
  - b) Accessory structures shall not exceed six hundred (600) square feet of gross building area.
  - c) All buffer yard requirements within the Zoning Ordinance shall be otherwise satisfied.
  - d) The division of property for the purpose of locating a wireless communication facility is prohibited unless all Zoning Ordinance requirements and conditions are met.
  - e) A registered structural engineer licensed in the State of Michigan shall certify the tower construction plans.
  - f) The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and the installation is in compliance with all applicable codes.
  - g) All towers must meet the standards of the Federal aviation Administration and the Federal Communications Commission.
  - h) Communication towers in excess of one hundred (100') feet in height above grade level shall be prohibited within a two (2) mile radius of a public airport or one-half (1/2) mile radius of a heliport.



- i) No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, on or upon any required setback area for the district in which the antenna or tower is located. In no case shall a tower or antenna be located within thirty-feet (30') feet of a property line. The applicant may apply to the Zoning Board of Appeals for a setback variance.
- j) Metal towers shall be constructed of, or treated with, corrosive-resistant material.
- k) Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
- l) Towers with antennas shall be designed to withstand a uniform wind loading as prescribed in the building code.
- m) All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8') feet above the ground.
- n) Towers shall be located and designed so that they do not interfere with telephone, radio, and television reception in nearby residential areas.
- o) Towers shall be located so as to allow maintenance vehicles to maneuver on the property.
- p) Minimum spacing between communication tower locations shall be one (1) mile to prevent a concentration of towers in the Township.
- q) Height of the tower shall not exceed three hundred (300) feet from grade.
- r) Towers shall be artificially lighted only to the extent required by the FAA, or by the Township Board whichever is greater. Where possible, considering all site restrictions, any such lighting shall not unduly interfere with the peace and repose of the surrounding land uses, whether or not in the same zoning district.
- s) Existing on-site vegetation shall be preserved to the maximum extent practicable.
- t) No advertisement or identification of any kind, except required for emergency purposes, shall be displayed or erected on the property.

- u) The antenna shall be painted to match the exterior treatment of the tower. The paint scheme shall minimize the off-site visibility of the antenna and tower.
- v) Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive standards are adopted in the future, the antenna shall be made to conform to said regulations within in 30 days or the Special Land Use approval will be subject to revocation by the Township Board. All costs for testing and verification of compliance shall be borne by the operator of the antenna.
- w) There shall be no employees located on the site. Occasional or temporary repair service activities are excluded from restriction.
- x) Where the property adjoins any residentially zoned property or land use, the developer shall plant two (2) alternating rows of evergreen trees having a minimum height at time of planting of five feet (5') on ten foot (10') centers along the entire perimeter of the tower and related structure. The applicant shall maintain these trees, and dead trees shall be replaced during the following planting season. Any necessary replacements shall also be a minimum height of five feet (5') at the time of replacement. The applicant shall maintain these trees perpetually.
- y) All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.
- z) The site and tower shall be maintained in compliance with all applicable laws, codes and ordinances. The Township may require landscaping or other improvements to the site so as to minimize the aesthetic, or other damage the tower causes to the surrounding properties.

## 2. **LAND DIVISION**

Subject to the Sodus Township Land Division Ordinance, the division of property for locating a wireless communication facility is prohibited unless all zoning requirements are met.

### Section 1.07 PENALTIES AND ENFORCEMENT

## **1. ABANDONMENT and PENALTIES for VIOLATION**

The property owner shall remove the tower within six months of being abandoned. If the applicant fails to do so within six months of abandonment, special use shall be considered revoked. The Township may, at its sole discretion, enter the property and cause the demolition of the tower, antennae, and any necessary structure(s). Prior to demolition, the Township shall provide written notice of demolition via first class mail to the applicant not less than thirty days (3) prior to demolition. All costs, including attorney fees, associated with demolition shall be placed on the tax bill of the property as a special assessment.

Any person, firm or corporation who violates any provision of this ordinance shall be guilty of a misdemeanor punishable by imprisonment of up to ninety (90) days and a fine of up to \$500.00 or both. Each day a violation exists shall be a separate offense.

PRIVATE ROAD ORDINANCE  
OF  
TOWNSHIP OF SODUS  
COUNTY OF BERRIEN, STATE OF MICHIGAN

ORDINANCE NO. 23

An Ordinance to protect the health, safety, and general welfare of the inhabitants of Sodus Township.

**SECTION 1.01**

PURPOSE

The Township has hereby determined that as large tracts of land are divided, sold transferred, and developed, private access roads are being created to provide access to the newly divided properties, not subject to regulation under the Michigan Subdivision Act of 1967 and other State regulations. The Township determines it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of Private Roads to assure:

- A. THAT Private Roads are designed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.
- B. THAT said roads are constructed of suitable materials to ensure minimal maintenance and safe passage.
- C. THAT Private Roads will be constructed so as to protect against or minimize soil erosion and prevent damage to lakes, streams, wetlands, and natural environment of the Township.

**SECTION 1.02**

DEFINITIONS

For purposes of this section, the following terms are defined as follows:

- A. An “existing Private Road” is a Private Road or a Private Road System, which is used to provide access to no less than two (2) or more than five (5) existing lots, or dwelling units as of the effective date of this Ordinance.
- B. An “existing lot” is a lot which, as of the effective date of this Section, meets all Township of Sodus regulations for the district in which it is located, and meets at least

one of the following conditions:

- (1) The lot consists of a parcel described by metes and bounds for which a deed has been recorded with the Berrien County Register of Deeds, or of a parcel described by a land contract or memorandum of land contract which has been recorded by the Berrien County Register of Deeds;
  - (2) The lot has been assigned its own permanent parcel number by the Berrien County Property Description and Mapping Department and is individually assessed and taxed on that basis.
- C. An “existing dwelling unit” is a single family home for which the Township as of the effective date of this Ordinance has issued a building permit.

### SECTION 1.03

#### GENERAL REQUIREMENTS AND APPLICATION TO EXISING PRIVATE ROADS

A. After the effective date of this Ordinance, a Private Road shall not be constructed, extended, relocated, or rebuilt, except in accordance with the minimum standards and requirements of this Ordinance. If an additional lot is proposed adjacent to an existing Private Road, the road shall meet the requirements of Section 1.04E and a Private Road Permit must be obtained as per Section 1.06. If an existing Private Road is proposed to be extended, then the existing portion shall be improved to meet the standards of this Ordinance.

B. Private Roads are permitted in the following districts.

- R-AG, Residential
- R-1, Single Family Residential
- R-3, Multi-Family Residential
- C, Commercial
- M-1, Industrial
- M-2, Industrial Park
- M-A, Industrial Agriculture
- AG, Agricultural

C. The provisions of this ordinance shall not apply to access roads internal to any individual lot or parcel of land that has direct public street frontage access. Is under the control of one person, firm, corporation, or association, provided that the access road does not provide access to any abutting lot or parcel of land. Examples of access roads that may be exempted from the provisions of this ordinance include those serving apartment complexes, mobile home parks, nursing homes, hospitals, factories, schools and shopping centers which are otherwise subject to site plan review and approval under the provisions of the Sodus Township Zoning Ordinance

D. Private Roads shall not interconnect with the public street network in a manner that will preclude the extension of public streets if it is necessary to further the logical, orderly, and

efficient development of the overall public street network. In making such determination, the Planning Commission shall consider the circulation pattern and traffic volumes on nearby public streets, and existing and proposed land use in the general area, the recommendations contained within the Sodus Township Master Plan, and Street plan, if any and if applicable, the street and highway plans of the Berrien County Road Commission and Michigan Department of Transportation.

E. Where Private Roads in existence prior to the effective date of this ordinance are to be extended and serving five (5) lots or less, the existing road may be extended, provided that the entire Private Road is improved to the construction specifications of section 1.04(E) of this ordinance.

## **SECTION 1.04**

### **MINIMUM STANDARDS FOR PRIVATE ROADS**

A. A Private Road shall be located within a Private Road Easement. Such easement shall not be less than (66) feet in width for residential, (80) Feet in width for Industrial & Commercial. If all other requirements are met, the easement can be part of the road frontage of a lot.

At any dead end of such easement, the easement shall widen such that there is a minimum radius of sixty-seven (67) feet Residential, or eighty-two (82) feet Industrial & Commercial.

B. A lot shall have frontage on the Private Road Easement, which is at least equal to the minimum lot frontage required for the zoning district in which the lot is located.

C. A Private Road shall intersect and connect to a public road. The Private Road shall have a minimum of sixty-six (66) feet of frontage for residential, eighty (80) feet for Industrial & Commercial at its access point to the public road. A Private Road shall not be approved which accesses a public road by another Private Road.

D. A Private Road serving two (2) or more lots shall be given a street name that is not the same or similar to any other street named in the county. A street sign, bearing the street name given the Private Road, meeting Berrien County Road Commission standards as to design, location and maintenance, shall be erected and maintained by the applicant/s where such Private Road intersects any public road. This provision shall also apply to existing Private Roads. A street sign shall be erected within one (1) year after the adoption of this Ordinance.

E. A new Private Road serving five (5) or less lots is not required to be paved but shall have a minimum width of sixteen (16) feet with a three (3) foot shoulder on each side. Shoulder grading shall not exceed a slope of one half of an inch (1/2") per foot. The road shall have a minimum of three-tenths foot (0.3") crown from the centerline to the edge of the road. The road base shall consist of at least a six (6) inch gravel base (MDOT 22A) with a twelve (12) inch sand sub-base (MDOT Class 2). The road shall widen at

any dead-end so there is at least a forty (40) foot radius turn-around.

F. A Private Road shall not exceed a grade of six percent (6%), provided that within 30 feet of an intersection of a Private Road with any other Private Road or with any public right-of-way a Private Road shall not exceed a grade of one and one-half percent (1.5%).

G. Private Road shall be constructed in a manner to provide effective storm water drainage and to prevent run-off onto adjacent property. If a Private Road crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culvert or other structure) must be certified by a registered professional engineer that it complies with applicable Berrien County Drain Commission and State of Michigan requirements.

H. A dwelling unit that derives its primary access from a Private Road shall display a house number in a manner so that the number is at all times readily visible from the Private Road. The house numbers shall be a minimum of three (3) inches in height.

I. In determining the location of a Private Road, consideration shall be given to safety of traffic entering and exiting the driveway in relationship with the public road.

J. The Private Road intersection must have a minimum corner clearance of one hundred twenty five (125) feet from a public road cross street. Corner clearance is measured from the ultimate near cross street curb to the near Private Road curb.

## **Section 1.05**

### **ROAD MAINTENANCE**

#### **A. Road Maintenance Agreement**

The applicant/s, and/or owner/s, of the proposed Private Road shall provide to the Township Clerk a recorded road maintenance agreement, access easement agreement, and deed restrictions in compliance with Section 1.06 (B) (5) which shall provide for the perpetual private (non-public) maintenance of such roads and/or easements to a necessary and reasonable standard to serve the parties having an interest in the Private Road. These documents shall contain the following provisions:

- (1) A method of initiating and financing of such road and/or easements in order to keep the road in a reasonable good and usable condition.
- (2) A workable method of apportioning the costs of maintenance and improvements. For new Private Road applications and for applications for the extension of existing Private Roads, the recorded road maintenance agreement and the method of apportioning the costs of maintenance and improvements shall provide that any future improvements required or desired shall be completed over the entire length of the Private Road and/or any extensions thereto.

- (3) A notice that if repairs and maintenance are not made, the Township Board may bring the road up to the design standards specified in Section 1.04 and access owner/s of parcels on the Private Road for the improvements, plus an administrative fee in the amount of 10% of the total cost of the improvements.
- (4) A notice that no public funds of the Township of Sodus are to be used to build, repair, or maintain the Private Road.
- (5) Easements to the public for purposes of utilities, emergency and other public vehicles for whatever public services are necessary.
- (6) A provision that the owner/s of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owner/s. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen, and others bound to or returning from any of the properties having a right to use the road.

#### B. Road Maintenance and Improvement Standards

- (1) Improvements to and maintenance of Private Roads shall be accomplished so as to provide for a consistent surface maintained to meet the requirements of this Ordinance throughout the entire length of the Private Road.

### **SECTION 1.06**

#### **PROCEDURE FOR REVIEW OF PRIVATE ROADS**

##### A. Permit Application and Fee

An application to establish, extend, relocate, or rebuild a Private Road shall be filed with the Township Zoning Administrator along with a fee as set by the Township Board. The application shall contain or be accompanied by the following information:

- (1) The name(s) of the owner/s and any other parties having any legal interest in the Private Road and the property across which it is to be constructed.
- (2) Permanent parcel number or legal description of the property over which the Private Road is to be constructed.
- (3) A site location map not to scale, which shows the location of the parcel containing the road to surrounding properties and roadways within one-half mile of the site.
- (4) A scaled drawing showing the location, route, dimensions, specifications and design of the Private Road and any proposed extensions of the road, existing or proposed curb cuts and the location and distance to any public street which the



Private Road is to intersect, in compliance with this Ordinance.

- (5) A scale drawing illustrating the proposed lot divisions.
- (6) A road maintenance agreement, access easement agreement and deed restrictions as described in Section 1.05 herein, shall also accompany the application.
- (7) A copy of the Driveway Permit Application from the Berrien County Road Commission.
- (8) A letter from the Berrien County Road Commission indicating there is no known duplication of the proposed Private Road name.

#### B. Review of Permit Application

- (1) The permit application, drawings and other required information should be forwarded to the Planning Commission to determine compliance with the standards for Private Roads. Not less than five (5) nor more than fifteen (15) days prior to the meeting, the Planning Commission Chairman shall send a notice to all property owners within three hundred (300) feet of the subject property.  
Such notice shall describe the approximate location of the proposed new Private Road or the extension, relocation or rebuilding of an existing Private Road and the date, time and place of the Planning Commission meeting at which time the application will be considered.
- (2) The Planning Commission shall review this information and may consult with the Township Fire Chief, Attorney, Engineer, or Planner as deemed necessary. A quorum of the Planning Commission shall be present to review and decide upon the permit application.
- (3) If the Planning Commission finds that the application meets the requirements of this Ordinance, it shall then recommend to the Township Board that a permit be issued for the construction of the Private Road. This permit shall consist of a stamp noting approval and containing the signature of the Zoning Administrator and the date of approval. Two copies of the Private Road plans shall be stamped for approval; the applicant/s, and one for Township records. This construction permit is not a Private Road Permit and does not authorize the construction of any dwelling units on the Private Road. The construction permit is valid for a period of one (1) year from the date of approval. If construction of the Private Road has not commenced before this date, the permit shall expire. A new permit shall be required before construction can begin.

- (4) If the Planning Commission denies the application, the Planning Commission meeting minutes shall be provided to the applicant/s within fourteen (14) working days of the date of the Planning Commission meeting.
- (5) Final Compliance Requirements – Upon completion of construction of the Private Road, the applicant/s shall provide to the Zoning Administrator, (a) a letter from a registered professional engineer or the Berrien County Road Commission that the road has been constructed in compliance with the approved Private Road plans. (b) Documentation that the road maintenance agreement, access easement and deed restrictions have been recorded with the Berrien County Register of Deeds office, and (c) a Driveway Permit for the Private Road from the Berrien County Road Commission.
- (6) Private Road Permit Issuance – Upon approval of all items required for final compliance, the Zoning Administrator shall issue a Private Road Permit.
- (7) Permits for Dwellings on Private Roads – A building permit shall not be issued for any principal dwelling that derives its primary access from a Private Road unless, a Private Road Permit has been issued by the Township, and the road has been completed in accordance with the approved permit.

## **SECTION 1.07**

### TOWNSHIP LIABILITY

The owner/s of the Private Road agree by applying for and securing a permit to construct the Private Road, that they shall indemnify and save and hold the Township harmless from all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair and replace the Private Road. Such wording shall appear on the application for the permit and be signed by the applicant/s.

## **SECTION 1.08**

### VARIANCES

Any person affected by a decision regarding this Ordinance shall have the right to appeal the decision to the Township Board of Appeals within twenty-one (21) days. Such appeal shall be filed with the Township Clerk in writing and shall state the reasons for appeal and any documents in support thereof. The Township Board of Appeals shall establish a time for hearing the appeal that shall be no later than thirty (30) days after filing. Board of Appeals shall send written notice of such hearing by first class mail. It shall also be provided to all adjacent properties that depend or may

depend in the future on the Private Road for access and all properties with 300 feet of such Private Road and to all Planning Commission members. Such notice shall be given not less than seventy-two hours prior to such hearing. The decision of the Township Board of appeals shall be set forth in writing and be delivered to the applicant/s within ten (10) calendar days following the hearing. The decision of the Township Board of Appeals shall be final. An appeal may be taken to Circuit Court. The Township Board of Appeals shall grant variances only upon a finding, from reasonable evidence that the following facts and conditions exist:

- (A) THAT the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of this Ordinance or the public interest. The possibility of increased financial return shall not of itself be deemed sufficient to grant a variance.
- (B) THAT the condition or situation of the specific piece of property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formation of a general regulation for such conditions or situation.
- (C) THAT by reason of exceptional narrowness in width, breadth, length, or shape of specific piece of property on the effective date of the Ordinance, or by reason of unusual topographic conditions, or other extraordinary situation or condition of the land, building, or structure or of the use of property immediately adjoining the property in questions, the literal enforcement of the requirements of this Ordinance would involve practical difficulties or would cause undue hardship.
- (D) WHERE there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance is observed, public safety secured and substantial justice done.

## **SECTION 1.09**

### **PENALTIES**

Any person who violates a provision of this Ordinance shall be responsible for a municipal civil infraction, and upon an admission or determination of responsibility thereof, shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars, plus court costs. Each day that a violation occurs shall be considered a separate violation. The issuance of a citation for a municipal civil infraction shall not in any way limit the township in seeking enforcement of the provisions of this Ordinance, including but not limited to, requesting a civil restraining order from any court of competent jurisdiction.

## **SECTION 1.10**

### **SEVERABILITY**

If any provision of this Ordinance or the application thereof to any person or circumstance shall be found to be invalid by any court, such invalidity shall not affect the remaining provisions of the Ordinance, which shall be given effect.

**SECTION 1.11**

**EFFECTIVE DATE**

This Ordinance shall take effect thirty (30) days after its publication in the manner provided by law.

Adopted this twenty third day of April 2002.

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Tom Eversole

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Virginia Palis

**ADOPTED: 23 APRIL 2002**

TOWNSHIP OF SODUS

Berrien County Michigan

ORDINANCE ENFORCEMENT OFFICER ORDINANCE  
ORDINANCE NO. 24

(Adopted: June 14, 2005)

An ordinance to establish the office of ordinance Enforcement Officer; to prescribe the duties of said office; to authorize the Township Board to appoint any person persons to said office; and to amend any ordinances of Sodus Township which conflict with the provisions thereof.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN, ORDAINS:

Section 1 – Ordinance Enforcement Officer Established

There is hereby established the office of Ordinance Enforcement Officer within the Township of Sodus, Berrien County, Michigan.

Section 2- Appointment Authority

The Sodus Township Board is hereby authorized by resolution at any regular meeting of the Board, to appoint any person or persons to the office of Ordinance Enforcement Officer for such term or terms as may be designated in said resolution. Said Board may further, by resolution, remove any person from said office, at the discretion of said Board.

Section 3 – Authority of Ordinance Enforcement Officer

The Ordinance Enforcement Officer is hereby authorized to enforce all ordinances of the Township of Sodus, whether heretofore or hereafter enacted, and whether such ordinances specifically designated a different official to enforce the same or do not designate any particular enforcing officer. Whether a particular officer is so designated in any such ordinance, their authority shall continue in full force and effect and shall in no way be diminished or impaired by the terms of this ordinance, and the authority of the Ordinance Enforcement Officer to enforce the same shall be in addition to and supplementary to the authority granted to such other specific officer. An Ordinance Enforcement Officer shall, in the performance of the officer's duties, be subordinate and responsible to the Supervisor or such other Township Board member as the supervisor may from time to time designate.

Section 4 – Duties of Ordinance Enforcement Officer

The Ordinance Enforcement Officer's duties herein authorized shall include, among others, the following Ordinance violations; serving notice of violations; serving appearance tickets as authorized under Act 147 of the Public Acts of 1968, being MCL 764.9A, et seq., Public Action 175 of 1927, being MCL 760.1, et seq., both as amended; appearance in court or other judicial proceedings to assist in the prosecution of ordinance violators; and such other ordinance enforcement duties as may be delegated by the Township Supervisor or assigned by the Township attorney.

Section 5 – Powers of the Ordinance Enforcement Officer

The Ordinance Enforcement Officer is hereby declared to be a peace officer under the authority of Michigan Public Act 246 of the Public Acts of 1945, being MCL 41.181, et seq., as amended, and is a public servant specifically authorized by law or ordinance to issue and serve appearance tickets pursuant to Act 175 of 1927, being MCL 764.9C, et seq., as amended, and an authorized local officer pursuant to MCL 600.8701, et seq., as amended.

Section 6 – Saving Clause

The provisions of the within ordinance are hereby declared to be severable and the invalidation of any one or more of the same by any judicial determination or statutory or constitutional provision shall not invalidate the remainder of said provisions or ordinance.

Section 7 – Effective Date

This Ordinance shall take immediate effect. All ordinances of the Township heretofore or hereafter adopted shall hereafter be supplemented by the terms of this ordinance.

I hereby certify the foregoing is a true and correct copy of the Ordinance Enforcement Officer Ordinance for Sodus Township, Berrien County, Michigan, duly adopted on the 14 day of June, 2005.

---

Virginia Palis, Clerk  
Sodus Township

A motion that said "Ordinance Enforcement Officer Ordinance" be enacted was made by Virginia Palis, and supported by Marie Grajauskis at a regular meeting of the Sodus Township Board on the 14 day of June, 2005.

The names of the Township Board members and their votes are as follows:

<u>Name</u>	<u>Yes</u>	<u>No</u>
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Michele Bennett	x	
Virginia Palis	x	
Karen Morgan		x absent
Marie Grajauskis	x	
Kenneth Peters	x	

I hereby certify that the foregoing ordinance was published in the Herald Palladium  
St. Joseph, Michigan, on the \_\_\_\_\_ day of June, 2005.

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Virginia Palis, Clerk  
Sodus Township

STATE CONSTRUCTION CODE  
ORDINANCE

FOR FLOODPLAIN MANAGEMENT PROVISIONS

SODUS TOWNSHIP  
BERRIEN COUNTY

ORDINANCE NO. 25

An ordinance to designate an enforcing agency to discharge the responsibility of Sodus Township located in Berrien County, under the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended.

SODUS TOWNSHIP HEREBY ORDAINS:

Section 1. AGENCY DESIGNATED. Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building Official of Sodus Township is hereby designated as the enforcing agency to discharge the responsibility of Sodus Township under Act 230, of the Public Acts of 1972, as amended, State of Michigan. Sodus Township assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

Section 2. CODE APPENDIX ENFORCED. Pursuant to the provisions of the state construction code, in accordance with Section 8B(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within Sodus Township.

Section 3. DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS. The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled the Berrien County Flood Insurance Study and dated April 17, 2006, and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 0108C, 0109C, 0120C, 0130C, 0140C, 0235C, 0251C, 0252C, and 0253C and dated April 17, 2006, are adopted by reference and declared to be a part of Section 1612.3 of the Michigan Building Code.

Section 4. REPEALS. All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

Section 5. PUBLICATION. This ordinance shall be effective after legal publication and in accordance with the provisions of the Act governing same.

Adopted this 28 day of March, 2006.  
This ordinance duly adopted on March 28, 2006, at a regular meeting of  
The Sodus Township Board and will become effective on April 30<sup>th</sup>, 2006.



A motion that said State Construction Code Ordinance be enacted was made by Ken Peters and supported by Marie Grajauskis at a regular meeting of the Sodus Township Board on the 28 day of March, 2006.

The names of the Township Board members and their votes are as follows:

NAME	YES	NO
Michelle Bennett	x	
Virginia Palis	x	
Karen Morgan	x	
Marie Grajauskis	x	
Kenneth Peters	x	

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Sodus Township Board at a meeting held on the 28 day of March, 2006, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 167 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least (18) hours prior to the time set for said meeting.

Dated 3-28-06

\_\_\_\_\_  
Virginia Palis  
Clerk, Sodus Township

# TOWNSHIP OF SODUS

Berrien County, Michigan

## *Adoption of Industrial Waste Rules and Regulations*

ORDINANCE NO. 26

(Adopted: April 11th, 2006)

An ordinance to secure the public health, safety and general welfare of the residents and property owners of Sodus Township, Berrien County, Michigan, by adoption of the Joint Treatment Plant Industrial Waste Rules and Regulations promulgated by the Joint Board.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN, ORDAINS:

### Section 1

The purpose of this Ordinance is to adopt the Rules and Regulations to provide for the maximum possible beneficial public use of the Joint Board's Waste Water Treatment facilities through regulation of sewer use, waste water discharges; and to provide procedures for complying with the requirements contained therein.

### Section 2

Sodus Township is entering into an Addendum to the Sanitary Sewer Service Agreement attached hereto and made a part hereof.

### Section 3

Sodus Township hereby incorporates the attached Industrial Waste Rules and Regulations promulgated by the Joint Board, including amendments as may be adopted from time to time, to regulate the discharge of industrial and commercial sanitary and/or process sewage to sewer systems tributary to the Joint Board.

### Section 4 - Effective Date/Appeal

This Ordinance shall take effect on June 1, 2006. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

I hereby certify the foregoing is a true and correct copy of the Adoption of Industrial Waste Rules and Regulations Ordinance for Sodus Township, Berrien County, Michigan, duly adopted on the 11 day of April, 2006.

Virginia Palis, Clerk

Sodus

Township

A motion that said "Adoption of Industrial Waste Rules and Regulations" Ordinance be enacted was made by Ken Peters, and supported by M. Bennett, at a regular meeting of the Sodus Township Board on the 11th day of April, 2006.

The names of the Township Board members and their votes are as follows:

<u>Name</u>	<u>Yes</u>	<u>No</u>
Michele Bennett	<u>  x  </u>	
Virginia Palis		<u>  x  </u>
Karen Morgan		<u>  x  </u>
Marie Grajauskis		<u>  x  </u>
Kenneth Peters		<u>  x  </u>

I hereby certify that the foregoing ordinance was published in the Trade Lines Sodus, Michigan, on the 17th day of April, 2006.

Virginia Palis, Clerk  
Sodus Township

SODUS TOWNSHIP  
SEXUALLY ORIENTED BUSINESSES  
ORDINANCE NO. 27  
Effective June 1, 2006

AN ORDINANCE OF SODUS TOWNSHIP REGULATING SEXUALLY ORIENTED BUSINESSES; PROVIDING FOR THE PURPOSE; PROVIDING FOR DEFINITIONS "ADULT ARCADE," "ADULT BOOKSTORE," "ADULT NOVELTY STORE OR ADULT VIDEO STORE," "ADULT CABARET," "ADULT MOTEL," "ADULT MOTION PICTURE THEATER OR ADULT LIVE STAGE PERFORMING THEATER," "EMPLOYEE," "ESCORT," "ESCORT AGENCY," "ESTABLISHMENT," "LICENSE," "NUDE MODEL STUDIO," "NUDITY/STATE OF NUDITY," "PERSON," "SEMI-NUDE/SEMI-NUDE CONDITION," "SEXUAL ENCOUNTER CENTER," "SEXUALLY ORIENTED BUSINESS," "SPECIFIED ANATOMICAL AREAS," "SPECIFIED CRIMINAL ACTIVITY," "SPECIFIED SEXUAL ACTIVITIES," "SUBSTANTIAL ENLARGEMENT," "TRANSFER OF OWNERSHIP OR CONTROL"; PROVIDING FOR CLASSIFICATION OF SEXUALLY ORIENTED BUSINESS; PROVIDING FOR A LICENSE REQUIREMENT; PROVIDING FOR THE ISSUANCE OF LICENSES; PROVIDING FOR FEES; PROVIDING FOR INSPECTION REQUIREMENT; PROVIDING FOR THE EXPIRATION OF LICENSES; PROVIDING THE SUSPENSION OF LICENSES; PROVIDING FOR THE REVOCATION OF LICENSES; PROVIDING FOR THE TRANSFER OF LICENSES; PROVIDING FOR THE LOCATION OF SEXUALLY ORIENTED BUSINESSES; PROVIDING FOR ADDITIONAL REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS, OR LIVE ENTERTAINMENT IN VIEWING ROOMS; PROVIDING FOR ADDITIONAL REGULATIONS FOR ESCORT AGENCIES; PROVIDING FOR ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS; PROVIDING FOR ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY; PROVIDING FOR THE PROHIBITION AGAINST CHILDREN IN A SEXUALLY ORIENTED BUSINESS; PROVIDING FOR THE HOURS OF OPERATION; PROVIDING FOR EXEMPTIONS; PROVIDING FOR THE PENALTY FOR VIOLATION; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES AND THE SAVINGS OF ALL PENDING MATTERS; PROVIDING FOR THE EFFECTIVE DATE HEREOF.

## THE TOWNSHIP OF SODUS ORDAINS:

### SEXUALLY ORIENTED BUSINESSES

#### Section 1 PURPOSE

The purpose of this ordinance is to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of Sodus Township (hereinafter referred to as "Township"), and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Township. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

#### Section 2 DEFINITIONS

- B. "ADULT ARCADE" means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, 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" (as herein defined).
- B. "ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE" means a commercial establishment having ten percent (10%) or more of all usable interior, retail, wholesale, or warehouse space devoted to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified Sexual Activities" or "specified Anatomical Areas" (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material. Such establishment or the segment or section devoted to the sale or display of such material in an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- C. "ADULT CABARET" an establishment which features any of the following: topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, or topless and/or bottomless waitpersons or employees.

- D. "ADULT MOTEL" means a hotel, motel or similar commercial establishment which:
1. offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which 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 which advertises the availability of this adult type of photographic reproductions; or
  2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
  3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- E. "ADULT MOTION PICTURE THEATER OR ADULT LIVE STAGE PERFORMING THEATER" means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons therein. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- F. "EMPLOYEE" means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.
- G. "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.
- H. "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.
- I. "ESTABLISHMENT" means and includes any of the following:
1. The opening or commencement of any sexually oriented business as a new business;
  2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
  3. The additions of any sexually oriented business to any other existing sexually oriented business; or

4. The relocation of any sexually oriented business.
- J. "LICENSEE" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.
- C. "NUDE MODEL STUDIO" means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Michigan or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:
1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
  2. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
  3. Where no more than one nude or semi-nude model is on the premises at any one time.
- L. "NUDITY or a STATE OF NUDITY" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state. Nudity or a state of nudity does not include 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. Material as defined in Section 2 of Act No. 343 of the Public Acts of 1984, being Section 752.362 of the Michigan Compiled Laws.
  3. Sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being Section 722.673 of the Michigan Compiled Laws.
- M. "PERSON" means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- N. "SEMI-NUDE or in a SEMI-NUDE CONDITION" means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast,



exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part. "Semi-nude" or a state of "Semi-nude Condition" does not include 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. Material as defined in Section 2 of Act No. 343 of the Public Acts of 1984, being Section 752.362 of the Michigan Compiled Laws.
  3. Sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being Section 722.673 of the Michigan Compiled Laws.
- O. "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 the opposite sex; or
  2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.
- P. "SEXUALLY ORIENTED BUSINESS" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater or adult live stage performing theater, escort agency, nude model studio, or sexual encounter center.
- Q. "SPECIFIED ANATOMICAL AREAS" means portions of the human body defined as follows:
1. Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola, and
  2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- R. "SPECIFIED CRIMINAL ACTIVITY" means any of the following offenses:
1. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault, molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;

2. For which:
    - (a) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
    - (b) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
    - (c) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the convictions are of two or more misdemeanors or combination of misdemeanor offenses occurring within any 24-month period.
  3. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.
- S. "SPECIFIED SEXUAL ACTIVITIES" The explicit display of one or more of the following:
1. Human genitals in a state of sexual stimulation or arousal.
  2. Acts of human masturbation, sexual intercourse, or sodomy.
  3. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.
- T. "SUBSTANTIAL ENLARGEMENT" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this ordinance takes effect.
- U. "TRANSFER OF OWNERSHIP OR CONTROL" of a sexually oriented business means and includes any of the following:
1. The sale, lease, or sublease of the business;
  2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
  3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

### Section 3 CLASSIFICATION

- D. Sexually oriented businesses are classified as follows:

1. Adult arcades;
2. Adult bookstores, adult novelty stores, or adult video stores;
3. Adult cabarets;
4. Adult motels;
5. Adult motion picture theaters or adult live stage performing theaters;
6. Escort agencies;
7. Nude model studios; and
8. Sexual encounter centers.

#### Section 4 LICENSE REQUIRED

- A. It is unlawful:
1. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the Township pursuant to this ordinance.
  2. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the Township pursuant to this ordinance.
  3. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this ordinance.
- B. An application for a license must be made on a form provided by the Township.
- C. All applicants must be qualified according to the provisions of this ordinance. The application may request and the applicant shall provide such information (including fingerprints) as to enable the Township to determine whether the applicant meets the qualifications established in this ordinance.
- D. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a twenty (20) percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following Section and each applicant shall be considered a licensee if a license is granted.

- E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:
1. If the applicant is:
    - (a) An *individual*, the individual shall state his/her legal name and any aliases and submit proof that he/she is eighteen (18) years of age;
    - (b) A *partnership*, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;
    - (c) A *corporation*, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.
  2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state 1) the sexually oriented business's fictitious name and 2) submit the required registration documents.
  3. Whether the applicant, or a person residing with the applicant, has been convicted of a specific criminal activity as defined in this ordinance, and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.
  4. Whether the applicant, or a person residing with the applicant, has had a previous license under this ordinance or other similar sexually oriented business ordinances from another municipality or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this ordinance whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
  5. Whether the applicant or a person residing with the applicant holds any other licenses under this ordinance or other similar sexually oriented business ordinance from another municipality or county and, if so, the names and locations of such other licensed businesses.
  6. The single classification of license for which the applicant is filing.
  7. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.

8. The applicant's mailing address and residential address.
  9. A recent photograph of the applicant(s).
  10. The applicant's driver's license number, Social Security number, and/or his/her state or federally issued tax identification number.
  11. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
  12. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park or recreation area within one thousand (1,000) feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
  13. If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, videos cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section 14.0.
- F. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the Township the following information:
1. The applicant's name or any other name (including "stage" names) or aliases used by the individual;
  2. Age, date, and place of birth;
  3. Height, weight, hair and eye color;
  4. Present residence address and telephone number;
  5. Present business and address and telephone number;
  6. Date, issuing state and number of driver's permit or other identification card information;

7. Social Security number; and
  8. Proof that the individual is at least eighteen (18) years of age.
- G. Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:
1. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant,
  2. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other municipality, county or state has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
  3. A statement whether the applicant has been convicted of a specified criminal activity as defined in this ordinance and, if so, the specified criminal activity involved, the date, place and jurisdiction of each conviction.

#### Section 5 ISSUANCE OF LICENSE

- A. Upon the filing of said application for a sexually oriented business employee license, the Township shall issue a temporary license to said applicant. The application shall then be referred to the appropriate Township departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within forty-five (45) days from the date the completed application is filed. After the investigation, the Township shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
1. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
  2. The applicant is under the age of eighteen (18) years;
  3. The applicant has been convicted of a "specified criminal activity" as defined in this ordinance;
  4. The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this ordinance;

5. The applicant has had a sexually oriented business employee license revoked by the Township within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in Section 10.
- B. A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the Township that the applicant has not been convicted of any specified criminal activity as defined in this ordinance or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in Section 6.
- C. Within forty-five (45) days after receipt of a completed sexually oriented business application, the Township shall approve or deny the issuance of a license to an applicant. The Township shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
1. An applicant is under eighteen (18) years of age.
  2. An applicant or a person with whom applicant is residing is overdue in payment to the Township of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
  3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
  4. An applicant or a person with whom the applicant is residing has been denied a license by the Township to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
  5. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this ordinance.
  6. The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
  7. The license fee required by this ordinance has not been paid.
  8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this ordinance.

- D. The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to Section 3. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.
- E. The health department, fire department, and the building official shall complete their certification that the premises is in compliance or not in compliance within forty-five (45) days of receipt of the application by the Township.
- F. A sexually oriented business license shall issue for only one classification as found in Section 3.

#### Section 6 FEES

- A. Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee. The fee shall be set by resolution of the Township Board of Trustees.
- B. In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the Township an annual non-refundable license fee within thirty (30) days of license issuance or renewal. The license fee shall be set by resolution of the Township Board of Trustees.
- C. Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual non-refundable application, investigation, and license fee; the amount of said fee shall be established by resolution of the Township Board of Trustees.
- D. All license applications and fees shall be submitted to the Clerk of the Township.

#### Section 7 INSPECTION

- A. An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department, or other Township departments or agents to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time occupied or open for business.
- B. A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business.

#### Section 8 EXPIRATION OF LICENSE

- A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 4. Application for renewal shall be made at least



thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

- B. When the Township denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the Township finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

#### Section 9 SUSPENSION

- A. The Township shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:
  - 1. Violated or is not in compliance with any section of this ordinance;
  - 2. Refused to allow an inspection of the sexually oriented business premises as authorized by this ordinance.

#### Section 10 REVOCATION

- A. The Township shall revoke a license if a cause of suspension in Section 9 occurs and the license has been previously suspended within the preceding twelve (12) months.
- B. The Township shall revoke a license if it determines that:
  - 1. A licensee gave false or misleading information in the material submitted during the application process;
  - 2. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
  - 3. A licensee has knowingly allowed prostitution on the premises;
  - 4. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
  - 5. Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or
  - 6. A licensee is delinquent in payment to the Township, County, or State for any taxes or fees past due.

- C When the Township revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the Township finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.
- D. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

#### Section 11 SUSPENSION OR REVOCATION HEARING; JUDICIAL REVIEW; TRANSFER OF LICENSE

On determining that grounds for license suspension or revocation exist, the Township shall furnish written notice of the proposed suspension or revocation to the licensee. Such notice shall set forth the time and place of a hearing to be conducted by a hearing officer appointed by the Township, the grounds upon which the hearing is based, the pertinent ordinance or code sections at issue, and a brief summary of the facts in support of the suspension or revocation. The notice shall be mailed, postage prepaid, to the last known address of the licensee, or shall be delivered to the licensee personally, at least ten (10) working days prior to the hearing date. At the hearing, all parties shall have a right to offer testimonial, documentary, and tangible evidence on the issues, may be represented by counsel, and shall have the right to confront and cross-examine witnesses. Any relevant evidence upon which reasonable persons are accustomed to rely in the conduct of serious matters may be admitted. Any hearing under this section may be continued for a reasonable time for the convenience of a party or witness.

Notice of the hearing officer's decision shall be mailed to the applicant or licensee no later than seven (7) days after the hearing. If the hearing officer finds and determines that there are grounds for disciplinary action, the Township shall suspend or revoke the license pursuant to this ordinance.

All decisions of the Township to issue, review, deny, suspend or revoke a license are final within thirty (30) calendar days. After any denial, or a suspension or revocation, the applicant or licensee may seek prompt judicial review of such decision in any court of competent jurisdiction as provided by law. Notwithstanding the applicant's or licensee's right to initiate judicial review, the Township may, upon the written request of an aggrieved applicant or licensee, within five (5) business days of its receipt of the request, file an action with a court of competent jurisdiction seeking declaratory and injunctive relief, including temporary and preliminary relief, as to the propriety of the denial, revocation, or suspension.

If the Township denies an initial or renewal application and the aggrieved applicant either commences a legal action to determine the validity of the denial or makes a written request in the manner set forth herein that the Township commence such action, then the Township may issue a temporary license. This temporary license shall remain in effect only until the court in which the

action is pending renders a decision as to the propriety of the denial. Any temporary license issued pursuant to this section shall not grant any vested rights to the holder of the temporary license.

#### Section 12 TRANSFER OF LICENSE

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

#### Section 13 LOCATION OF SEXUALLY ORIENTED BUSINESSES

- A. It shall be unlawful for any person to operate or cause to be operated a sexually oriented business within one thousand (1000) feet of:
1. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
  2. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not including facilities used primarily for another purpose and only incidentally as a school;
  3. A boundary of a residential district as defined in the Township Zoning Ordinance and Zoning Map;
  4. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Township which is under the control, operation, or management of the Township park and recreation authorities;
  5. The property line of a lot devoted to a residential use as defined in the Township Zoning Ordinance;
  6. An entertainment business which is oriented primarily towards children or family entertainment; or
  7. A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State.
- B. It shall be unlawful for any person to cause or permit the operation, the substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.

- C. It shall be unlawful for any person to cause or permit the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.
- D. For the purpose of subsection A of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection A. Presence of a municipal, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.
- E. For purposes of subsection B of this Section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

#### Section 14 ADDITIONAL REGULATIONS FOR ADULT MOTELS

- A. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttal presumption that the establishment is an adult motel as that term is defined in this ordinance.
- B. A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he rents or sub-rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or sub-rents the same sleeping room again.
- C. For purposes of subsection B of this Section, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

#### Section 15 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS OR LIVE ENTERTAINMENT IN VIEWING ROOMS

- A. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depict specified sexual activities or specified anatomical areas, shall comply with the following requirements:
  - 1. Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be

permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Township may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

2. The application shall be sworn to be true and correct by the applicant.
3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Township.
4. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
6. It shall be the duty of the licensee to ensure that the view area specified in subsection 5 remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection 1 of this Section.
7. No viewing room may be occupied by more than one person at any time.
8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5) foot-candles as measured at the floor level.
9. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

10. No licensee shall allow openings of any kind to exist between viewing rooms or booths.
  11. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
  12. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.
  13. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
  14. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight (48) inches of the floor.
- B. A person having a duty under Subsection (1) through (14) of Subsection A above commits a misdemeanor if he knowingly fails to fulfill that duty.

#### Section 16 ADDITIONAL REGULATIONS FOR ESCORT AGENCIES

- A. An escort agency shall not employ any person under the age of eighteen (18) years.
- B. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

#### Section 17 ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS

- A. A nude model studio shall not employ any person under the age of eighteen (18) years.
- B. It shall be unlawful for any person under the age of eighteen (18) years to appear semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen (18) years was in a restroom not open to public view or visible to any other person.
- C. It shall be unlawful for any person to appear in a state of nudity, or to knowingly allow another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.
- D. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

#### Section 18 ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY

- A. It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.

- B. It shall be a misdemeanor for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten (10) feet from any patron or customer and on a stage at least two feet from the floor.
- C. It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.
- D. It shall be a misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer.

#### Section 19 PROHIBITION AGAINST CHILDREN IN A SEXUALLY ORIENTED BUSINESS

It shall be unlawful for any person to knowingly allow a person under the age of 18 years on the premises of a sexually oriented business.

#### Section 20 HOURS OF OPERATION

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) a.m. and eight o'clock (8:00) a.m. on weekdays and Saturdays, and one o'clock (1:00) a.m. and noon (12:00) p.m. on Sundays.

#### Section 21 EXEMPTIONS

- A. It is a defense to prosecution under Section 17 that a person appearing in a state of nudity did so in a modeling class operated:
  - 1. By a proprietary school, licensed by the State of Michigan; a college, junior college, or university supported entirely or partly by taxation;
  - 2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
  - 3. In a structure:
    - (a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

- (b) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
- (c) Where no more than one nude model is on the premises at any one time.

#### Section 22 PENALTY

Any person, corporation, partnership or any other legal entity who violates the provisions of this Ordinance shall be guilty of a misdemeanor and may be fined not more than Five Hundred Dollars (\$500.00) and/or imprisoned for not more than ninety (90) days, or both, in the discretion of the Court.

#### Section 23 REPEAL

All other Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance, except as herein provided, are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

#### Section 24 SEVERABILITY

If any section, subsection, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

#### Section 25 SAVINGS CLAUSE

The repeal or amendment herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution of any right established or occurring prior to the effective date of this Ordinance, as amended.

#### Section 26 EFFECTIVE DATE

This Ordinance, as amended, shall take full force and effect upon publication.

I hereby certify that the foregoing is a true and correct copy of the Sexually Oriented Businesses Ordinance for Sodus Township, Berrien County, Michigan, duly adopted on the 25 day of April, 2006.

Virginia Palis, Clerk

A motion that said Sexually Oriented Businesses Ordinance be enacted was made by Bennett and supported by Peters at a regular meeting of the Sodus Township Board on the 25th day of April, 2006.





The names of the Township Board members and their votes are as follows:

NAME	YES	NO
Michele Bennett	<u>  x  </u>	
Virginia Palis	<u>  x  </u>	
Karen Morgan	<u>  x  </u>	
Marie Grajauskis	<u>  x  </u>	
Kenneth Peters	<u>  x  </u>	

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Sodus Township Board at a meeting held on the   25   day of   April  , 2006, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 167 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

Dated:   April 25  , 2006

                      
Virginia Palis, Clerk

I hereby certify that the complete text or a summary of the foregoing Ordinance was published in the Herald-Palladium, St. Joseph, Michigan, on   , 2006.

Virginia Palis, Clerk

ILLCIT DISCHARGE  
AND  
CONNECTION ORDINANCE  
ORDINANCE NO. 28

SODUS, TOWNSHIP, MICHIGAN

FTC&H

JUNE 2004

ADOPTED OCTOBER 11, 2005

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**AN ORDINANCE to regulate non-storm water discharges to the storm water drainage system to the maximum extent practicable as required by federal and state law; to establish methods for controlling the introduction of pollutants into the storm water drainage system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process; to provide for payment or reimbursement of costs and expenses incurred by the township associated with noncompliance; to provide for the inspection, sampling, and monitoring of storm water and other discharges; and to provide penalties for violations of the ordinance**

**The township (Sodus Township) ordains:**

## **ARTICLE I            GENERAL**

### **SECTION 1.01        STATUTORY AUTHORITY AND TITLE**

This Ordinance is adopted in accordance with the Home Rule City Act, as amended, being MCL 117.1, et seq. (for township and villages, cite proper statute); the Drain Code of 1956, as amended, being MCL 280.1, et seq.; the Land Division Act as amended, being MCL 560.1 et seq.; the Revenue Bond Act, as amended, being MCL 141.101, et seq.; the Natural Resources and Environmental Protection Act, as amended, being MCL 324.101, et seq.; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33USC 1342(p) and 40 CFR parts 9, 122, 123, and 124; and other applicable state and federal laws.

The township shall administer, implement, and enforce the provisions of the ordinance. Any powers granted, or duties imposed, upon the township may be delegated in writing by the supervisor of the township to persons or entities acting in the beneficial interest of, or in the employ of the township.

### **SECTION 1.02        FINDINGS**

The township finds that:

- (1) Illicit discharges contain pollutants that will significantly degrade the water bodies and water resources of the township, thus threatening the health, safety, and welfare of the citizenry.
- (2) Illicit discharges enter the storm water drainage system through either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the storm drain system or spills connected by drain inlets).
- (3) Establishing the measures for controlling illicit discharges and connections contained in this Ordinance and implementing the same will address many of the deleterious effects of illicit discharges.
- (4) Any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance.

### **SECTION 1.03      PURPOSE**

It is the purpose of this Ordinance to establish minimum storm water management requirements and controls to accomplish, among others, the following objectives:

- (1) To regulate the contribution of pollutants to the storm water drainage system and water bodies by storm water discharges by any user.
- (2) To prohibit illicit discharges and connections to the storm water drainage system and water bodies.
- (3) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this Ordinance.
- (4) To provide appropriate remedies for failure to comply with this Ordinance.

### **SECTION 1.04      APPLICABILITY AND GENERAL PROVISIONS**

This Ordinance shall apply to all discharges entering the storm water drainage system and water bodies generated on any developed and undeveloped lands.

### **SECTION 1.05      DEFINITIONS**

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context in which they are used specifically indicates otherwise:

*Authorized Enforcement Agency:* The township, and/or any persons or agencies designated to act as the Authorized Enforcement agency by the township.

*Best Management Practices (BMPs):* Structural devices or nonstructural practices that are designed to prevent pollutants from entering storm water flows, to direct the flow of storm water, or to treat polluted storm water flows. BMPs may include, but shall not be limited to, those described in the Michigan Department of Environmental Quality Guidebook of BMPs for Michigan watersheds. Equivalent practices and design criteria that accomplish the purposes of this Ordinance (including, but not limited to, minimizing storm water runoff and preventing the discharge of pollutants into storm water) shall be as determined by the township Engineer.

*Clean Water Act:* The Federal Water Pollution Control Act, 33 USC Section 1251 et seq., as amended, and the applicable regulations promulgated there after.

*Discharge:* means the introduction (intentionally or unintentionally, and directly or indirectly) of any liquid, substance, pollutant, or other material into a storm water drainage system or water body.

*Discharger:* Any person who directly or indirectly discharges storm water from any premises. Discharger also includes any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission that is, or results in, a violation of this Ordinance.

*Drain:* Any and all conduits, facilities, measures, areas, and structures that serve to convey, catch, hold, filter, store, and/or receive storm water or groundwater, either on a temporary or permanent basis.

*Drainage:* The collection, conveyance, or discharge of groundwater and/or surface water.

*Drainage way:* A drain, water body, or floodplain.

*EPA:* The U.S. Environmental Protection Agency (EPA).

*Floodplain:* The area, usually low lands, adjoining the channel of a river, stream, or watercourse or lake, or other body of standing water that has been or may be covered by floodwater.

*Hazardous Materials:* Any solid, liquid, semisolid, or gaseous substance or material that because of its quantity, quality, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible illness or serious incapacitating but reversible illness, or may pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed.

*Illicit Connection:* Any method, means, or conduit for conveying an illicit discharge into a water body or a storm water drainage system.

*Illicit Discharge:* Any discharge to a water body or a storm water drainage system that does not consist entirely of storm water, that is not authorized by the terms of an NPDES permit, or that is not an authorized discharge as defined by this Ordinance.

*MDEQ:* Michigan Department of Environmental Quality.

*National Pollutant Discharge Elimination System (NPDES) Permit:* A permit issued by the EPA or a state under authority delegated pursuant to the Clean Water Act that authorizes the discharge of pollutants to waters of the United States.

*Non-Storm Water Discharge:* Any discharge to the storm water drainage system or a water body that is not composed entirely of storm water.

*Person:* An individual, firm, partnership, association, public or private corporation, public agency, instrumentality, or any other legal entity.

*Pollutant:* The term pollutant includes, but is not limited to, the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, hazardous materials, wrecked or discharged equipment, rock, sand cellar dirt, and industrial, municipal, commercial, and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act. Pollutant also includes properties or characteristics of water, including, but not limited to, pH, heat, TSS, turbidity, color, BOD, COD, toxicity, and odor.

*Premises:* Any building, structure, lot, parcel of land, or portion of land, or property, whether improved or unimproved, including adjacent sidewalks and parking strips.

*Property Owner:* Any person having legal or equitable title to premises or any person having or exercising care, custody, or control over any premises.

*State of Michigan Water Quality Standards:* All applicable state rules, regulations, and laws pertaining to water quality, including the provisions of Section 3106 of Part 31 of 1994 PA 451, as amended.

*Storm Water Drainage System:* Storm sewers, conduits, curbs, gutters, catch basins, drains, ditches, pumping devices, parking lots, roads, or other man-made channels that are designed or used, singly or together in combination with one another, for collecting or conveying storm water.

*Storm Water Pollution Prevention Plan:* A document, that describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, a storm water drainage system, and/or a water body to the maximum extent practicable.

*Storm Water Runoff(or Storm Water):* The runoff and drainage of precipitation resulting from rainfall, snowmelt, or other natural event or process.

*Toxic Material:* Any pollutant or combination of pollutants that is or can potentially be harmful to the public health or the environment, including, without limitation, those listed in 40 CFR 401.15 as toxic under the provisions of the Clean Water Act, or listed in the Critical Materials Register promulgated by the Michigan Department of Environmental Quality, or as otherwise provided by local, state, or federal laws, rules, or regulations.

*Wastewater:* Any water or other liquid, other than uncontaminated storm water, discharged from a premises. The term includes any water that has in any way been used and degraded or physically or chemically altered.

*Water Body:* A river, lake, stream, creek, or other watercourse or wetlands.



## **ARTICLE II            PROHIBITIONS AND AUTHORIZATIONS**

### **SECTION 2.01        PROHIBITE DISCHARGES**

- (1) It is unlawful for any person to discharge, or cause to be discharged, to a storm water drainage system or water body any substance or material, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water or an authorized discharge. This prohibition includes the commencement, conducting, or continuance of any illicit discharge by any person to a storm water drainage system or water body.
- (2) Any person discharging storm water shall effectively prevent pollutants from being discharged with the storm water, except in accordance with BMPs.
- (3) The Authorized Enforcement Agency is authorized to require dischargers to implement pollution prevention measures, using Storm Water Pollution Prevention Plans and BMPs, as determined necessary by the Authorized Enforcement Agency to prevent or reduce the discharge of pollutants to a storm water drainage system or water body.
- (4) The discharge prohibitions of this section shall not apply to any non-storm water discharge authorized under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the EPA, provided the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm water drainage system.

### **SECTION 2.02        PROHIBITED ILLICIT CONNECTIONS**

- (1) It is unlawful for any person to construct, use, maintain (or to allow the construction, use, maintenance or continued existence of ) an illicit connection.
- (2) This prohibition expressly includes, without limitation, illicit connections made prior to the effective date of this Ordinance, and regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

### **SECTION 2.03        AUTHORIZED DISCHARGES**

The following non-storm water discharges are permissible, but only if they do not result in a violation of State of Michigan water quality standards and provided that they are undertaken in compliance with any applicable or required BMPs:

- (1) Water supply line flushing.
- (2) Landscape irrigation runoff.
- (3) Diverted stream flows.

- (4) Rising groundwater.
- (5) Uncontaminated groundwater infiltration to storm drains.
- (6) Uncontaminated pumped groundwater.
- (7) Discharges from potable water sources.
- (8) Foundation drains.
- (9) Air conditioning condensate.
- (10) Irrigation water.
- (11) Springs.
- (12) Water from crawl space pumps.
- (13) Footing drains and basement sump pumps.
- (14) Lawn watering runoff.
- (15) Waters from non-commercial car washing.
- (16) Flows from riparian habitats and wetlands.
- (17) Residential swimming pool water and other dechlorinated swimming pool water, provided that any filter backwash water that is present is treated.
- (18) Residual street wash water.
- (19) Discharges or flows from emergency fire fighting activities.
- (20) Discharges specifically authorized in writing by the Authorized Enforcement Agency as being necessary to protect public health, welfare, and safety or the environment.

#### **SECTION 2.04 STORAGE OF HAZARDOUS OR TOXIC MATERIALS IN DRAINAGEWAY**

Except as permitted by law, it shall be unlawful for any person to store or stockpile, within a drainage way, any hazardous or toxic materials, unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a storm water drainage system or water body.

## **ARTICLE III            INSPECTION, MONITORING, REPORTING, AND RECORD KEEPING**

### **SECTION 3.01            INSPECTIONS AND SAMPLING**

The Authorized Enforcement Agency may inspect and/or obtain samples from any discharger's premises as necessary to determine compliance with the requirements of this Ordinance. Upon request, the discharger shall allow properly identified representatives of the Authorized Enforcement Agency to enter the premises of the discharger at all hours necessary for the purposes of such inspection or investigation, including, but not limited to, smoke/dye testing, televising pipes, sampling, and excavation. The Authorized Enforcement Agency shall provide the discharger reasonable advance notice of the need for such access, if possible and consistent with protection of public health and safety and the environment. The properly identified representatives may place on the discharger's premises the equipment or devices used for such sampling or inspection. Unreasonable delays in allowing access to a premises is a violation of this Ordinance.

### **SECTION 3.02            STORM WATER MONITORING FACILITIES**

If directed in writing to do so by the Authorized Enforcement Agency, a discharger of storm water runoff from any premises used for commercial or industrial purposes shall provide and operate equipment or devices for the monitoring of storm water runoff to provide for inspection, sampling, and flow measurement of each discharge to a water body or a storm water drainage system, as specified by the Authorized Enforcement Agency. The Authorized Enforcement Agency may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling, and flow measurement of discharges in order to determine whether adverse effects from, or as a result of, such discharges may occur. All such equipment and devices for the inspection, sampling, and flow measurement of discharges shall be installed and maintained at the discharger's expense in accordance with applicable laws, ordinances, and regulations.

### **SECTION 3.03            ACCIDENTAL DISCHARGES**

Any discharger who accidentally discharges into a storm water drainage system or a water body any substance other than storm water or an authorized discharge shall immediately notify the Authorized Enforcement Agency of the discharge. If the notification is given orally, a written report concerning the discharge shall be filed with the Authorized Enforcement Agency within 5 days. The written report shall specify all of the following:

- (1)     The composition of the discharge and the cause thereof.
- (2)     The exact date, time, and estimated volume of the discharge.

- (3) All measures taken to clean up the discharge, all measures taken or proposed to be taken to mitigate any known or potential adverse impacts of the discharge, and all measures proposed to be taken to reduce and prevent any recurrences.
- (4) The names and telephone numbers of the individual making the report, and (if different) the individual who may be contacted for additional information regarding the discharge.

### **SECTION 3.04 RECORD KEEPING REQUIREMENT**

Any person that violates any requirement of this Ordinance or that is subject to monitoring under this Ordinance shall retain and preserve for no less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence, and records, including records on magnetic or electronic media, and any and all summaries of such records relating to monitoring, sampling, and chemical analysis of any discharge or storm water runoff from any premises connected with the violation or subject to monitoring.

## **ARTICLE IV ENFORCEMENT**

### **SECTION 4.01 SANCTIONS FOR VIOLATION**

- (1) Violation; Municipal Civil Infraction. Except as provided by Section 4.01(6), and notwithstanding any other provision of the (city's, village's, township's) laws, ordinances, and regulations to the contrary, a person who violates any provision of this Ordinance (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the Authorized Enforcement Agency under this Ordinance) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than one thousand ~~[\$1,000]~~ per day for each infraction and not more than ten thousand ~~[\$10,000]~~ per day for each infraction, plus costs and other sanctions.
- (2) Repeat offenses; increased fines. Increased fines may be imposed for repeat offenses. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this Ordinance (i) committed by a person within any 12-month period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:
  - (a) The fine for any offense that is a first repeat offense shall be not less than two thousand five hundred ~~[\$2,500]~~, plus costs.
  - (b) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than five thousand ~~[\$5,000]~~, plus costs.

- (3) Amount of Fines. Subject to the minimum fine amounts specified in Sections 4.01(2)(a) and 4.01(2)(a), the following factors shall be considered by a court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this Ordinance: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.
- (4) Authorized Local Official. Notwithstanding any other provision of the (city's, village's, township's) laws, ordinances, and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations (directing alleged violators to appear in district court) and/or notices (directing alleged violators to appear at the (city's, village's, township's) Municipal Violations Bureau, as applicable) for violations of this Ordinance (in addition to any other persons so designated by the Authorized Enforcement Agency): the supervisor; [specify others as applicable], and any police officer.
- (5) Other Requirements and Procedures. Except as otherwise provided by this section, the requirements and procedures for commencing municipal civil infraction actions; issuance and service of municipal civil infraction citations; determination and collection of court-ordered fines, costs and expenses; appearances and payment of fines and costs; failure to answer, appear or, pay fines; disposition of fines, costs and expenses paid; and other matters regarding municipal civil infractions shall be as set forth in Act No. 236 of the Public Acts of 1961, as amended.
- (6) Any person who (1) at the time of a violation know or should have known that a pollutant or substance was discharged contrary to any provision of this Ordinance, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the Authorized Enforcement Agency under this Ordinance; or (2) intentionally makes a false statement, representation, or certification in any application for, or form pertaining to a permit, or in a notice, report, or record required by this Ordinance, or in any other correspondence or communication, written or oral, with the Authorized Enforcement Agency regarding matters regulated by this Ordinance; or (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this Ordinance; or (4) commits any other act that is punishable under state law by imprisonment for more than 90 days; shall upon conviction, be guilty of a misdemeanor punishable by a fine of \$500 per violation, per day, or imprisonment for up to 90 days, or both in the discretion of the court.

- (7) Any person who aids or abets another person in a violation of this Ordinance shall be subject to the sanctions provided in this section.

#### **SECTION 4.02 FAILURE TO COMPLY; COMPLETION**

The Authorized Enforcement Agency is authorized, after giving reasonable notice and opportunity for compliance, to correct any violation of this Ordinance or damage or impairment to the storm water drainage system caused by a discharge and to bill the person causing the violation or discharge for the costs of the work to be reimbursed. The costs reimbursable under this section shall be in addition to fees, amounts or other costs and expenses required to be paid to the Authorized Enforcement Agency under other sections of this Ordinance.

#### **SECTION 4.03 EMERGENCY MEASURES**

If emergency measures are necessary to respond to a nuisance; to protect public safety, health, and welfare; and/or to prevent loss of life, injury, or damage to property, the Authorized Enforcement Agency is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this Ordinance, and shall promptly reimburse the township for all of such costs.

#### **SECTION 4.04 COST RECOVERY FOR DAMAGE TO STORM WATER DRAINAGE SYSTEM**

Any person who discharges to a storm water drainage system or a water body, including, but not limited to, any person who causes or creates a discharge that violates any provision of this Ordinance, produces a deposit or obstruction or otherwise damages or impairs a storm water drainage system, or causes or contributes to a violation of any federal, state, or local law governing the township, shall be liable to and shall fully reimburse the township for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the township as a result of any such discharge, deposit, obstruction, damage, impairment, violation, exceedence or noncompliance. The costs that must be reimbursed to the township shall include, but shall not be limited to, all of the following:

- (1) All costs incurred by the township in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, exceedence or noncompliance.
- (2) All costs to the township of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, exceedence, or noncompliance.

- (3) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the township, or any township representative, by any governmental agency or third party as a result of a violation of applicable laws or regulations that is caused by or contributed to by any discharge, violation, exceedance, or noncompliance.
- (4) The full value of any township staff time (including any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the township legal counsel and any special legal counsel), associated with responding to, investigating, verifying, and prosecuting any discharge, violation, exceedance or noncompliance, or otherwise enforcing the requirements of this Ordinance.

#### **SECTION 4.05      COLLECTION OF COSTS; LIEN**

- (1) Costs incurred by the township pursuant to Sections 4.02, 4.03, 4.04, and 4.06(1) shall constitute a lien on the premises, which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time, or otherwise authorized by law. Any such charges that are delinquent for 6 months or more may be certified annually to the township Treasurer, who shall enter the lien on the next tax roll against the premises, the costs shall be collected, and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the township shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended, and by other applicable laws.
- (2) The failure by any person to pay any amounts required to be reimbursed to the township as provided by this Ordinance shall constitute an additional violation of this Ordinance.

#### **SECTION 4.06      SUSPENSION OF ACCESS TO THE STORM WATER DRAINAGE SYSTEM**

- (1) Suspension due to illicit discharges in emergency situations. The Authorized Enforcement Agency may, without prior notice, suspend access to the storm water drainage system to any person or premises when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm water drainage system or a water body. If the person fails to comply with a suspension order issued in an emergency, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize damage to the storm water drainage system or the environment, or to minimize danger to persons, and bill the person for the costs to the township in taking such steps.

- (2) Suspension due to the detection of illicit discharge. Any person discharging to the storm water drainage system in violation of this Ordinance may have their access to the system terminated, if the Authorized Enforcement Agency determines that such termination would abate or reduce an illicit discharge. The Authorized Enforcement Agency will notify a violator of the proposed termination of its access. It shall be unlawful for any person to reinstate access of the storm water drainage system to a premises terminated pursuant to this section without the prior written approval of the Authorized Enforcement Agency.

#### **SECTION 4.07 APPEALS**

Any person to whom any provision of this Ordinance has been applied may appeal in writing to the township, not later than 30 days after the action or decision being appealed. Such appeal shall identify the matter being appealed, and the basis for the appeal. The board shall consider the appeal and make a decision whereby it affirms, rejects, or modifies the action being appealed. In considering any such appeal, the board may consider the recommendations of the Authorized Enforcement Agency and the comments of other persons having knowledge or expertise regarding the matter. In considering any such appeal, the board may grant a temporary variance from the terms of this Ordinance so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- (1) The application of the Ordinance provisions being appealed will present or cause unnecessary hardship for the person appealing, provided, however, that unnecessary hardship shall not include the need for a property owner to incur additional reasonable expenses in order to comply with the Ordinance; and
- (2) The grant of the relief requested will not prevent accomplishment of the goals and purposes of this Ordinance, nor result in less effective management of storm water runoff.

#### **SECTION 4.08 JUDICIAL RELIEF**

With the approval of the township, the Authorized Enforcement Agency may institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this Ordinance or of any permit, order, notice or agreement issued or entered into under this Ordinance. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity that a court may order. The Authorized Enforcement Agency may also seek collection of fines, penalties and any other amounts due to the township that a person has not paid.



## **SECTION 4.09 CUMULATIVE REMEDIES**

The imposition of a single penalty, fine, order, damage, or surcharge upon any person for a violation of this Ordinance, or of any permit, order, notice or agreement issued, or entered into under this Ordinance, shall not preclude the imposition by the township, the Authorized Enforcement Agency, or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable limitations on penalty amounts under state or federal laws or regulations. A criminal citation and prosecution of a criminal action against a person shall not be dependent upon and need not be held in abeyance during any civil, judicial, or administrative proceeding, conference, or hearing regarding the person.

## **ARTICLE V PERFORMANCE AND DESIGN STANDARDS**

### **SECTION 5.01 RESPONSIBILITY TO IMPLEMENT BMPS**

The owner or operator of a premises used for commercial or industrial purposes shall provide, at the owner or operator's own expense, reasonable protection from a accidental discharge of prohibited materials or other wastes into the storm water drainage system or water body through the use of structural and nonstructural BMPs. Further, any person responsible for a premises that is, or may be, the source of an illicit discharge may be required to implement, at the person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the storm water drainage system or water body. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent, practicable, shall be deemed compliance with the provisions of this section.

## **ARTICLE VI OTHER MATTERS**

### **SECTION 6.01 INTERPRETATION**

Words and phrases in this Ordinance shall be construed according to their common and accepted meanings, except those words and phrases defined in Section 1.05 shall be construed according to the respective definitions given in that section. Technical words and technical phrases not defined in this Ordinance, but which have acquired particular meanings in law or in technical usage, shall be construed according to such meanings.

### **SECTION 6.02 CATCH-LINE HEADINGS**

The catch-line headings of the articles and sections of this Ordinance are intended for convenience only, and shall not be construed as affecting the meaning or interpretation of the text of the articles or sections to which they may refer.

**SECTION 6.03 SEVERABILITY**

The provisions of this Ordinance are hereby declared to be severable, and if any part or provision of this Ordinance should be declared invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect any other part or provision of this Ordinance.

**SECTION 6.04 OTHER ORDINANCES**

This Ordinance shall be in addition to other ordinances of the township and shall not be deemed to repeal or replace other ordinances, or parts thereof; provided that in the event of any inconsistency or conflict between this Ordinance and any other provision of any other ordinance, the provisions of this Ordinance shall control.

**SECTION 6.05 EFFECTIVE DATE**

This Ordinance shall become effective November 25, 05 following its publication or following the publication of a summary of its provisions in a local newspaper of general circulation.

This Ordinance was adopted 10-11-05, by the Sodus Township Board and made

effective

\_\_\_\_\_ Clerk  
Virginia Palis

SODUS TOWNSHIP

WIND ENERGY CONVERSION SYSTEMS  
ORDINANCE NO. 32

Adopted: May 24, 2011

Published: June 8, 2011

Effective: June 16, 2011

AN ORDINANCE TO PROMOTE AND REGULATE THE SAFE EFFICIENT USE OF WIND ENERGY CONVERSION SYSTEMS; TO ADD APERMITTED USES TO SOME DISTRICTS; TO ADD SMALL WIND ENERGY CONVERSION SYSTEMS; TO ADD LARGE WIND ENERGY CONVERSION SYSTEMS; OF THE TOWNSHIP ZONING ORDINACE; TO PROMOTE THE HEAHT, SAFETY, AND WELFARE OF SODUS TOWNSHIP RESIDENTS.

SODUS TOWNSHIP HEREBY ORDAINS:

**Section 1. Definitions.** The following shall apply to this ordinance:

**Wind Energy Conversion System:** “Wind Energy Conversion System: (WECS) shall mean all, or any combination of the following:

- A. A wind mill, mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
- B. a surface area, either variable or fixed, for utilizing the wind for electrical or mechanical power;
- C. A shaft, gearing, belt, or coupling utilized to convey the rotation of the surface areas into a form suitable for driving a generator, alternator, or other mechanical or electricity producing device;
- D. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy;
- E. The tower, pylon, or other structure upon which any, all, or some combination of the/ above are mounted; and
- F. A wind monitoring station.

**Wind Energy Conversion System, Small:** A wind energy conversion system as defined herein, consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 Kilowatts (kW) and which is intended to primarily reduce on-site consumption of utility power.

**Wind Energy Conversion System, Large;** A wind energy conversion system as defined herein, consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of more than 100 Kilowatts (kW).

**Section 2. Small Wind Energy Conversion Systems (WECS) are regulated as follows:**

- A. Intent.** It is the purpose of this section to promote the safe, effective, and efficient use of small wind energy systems installed to reduce the on-site consumption of electricity supplied by utility companies.
- B. Regulations.** A small WECS may be regarded as a permitted accessory use in any district, if it meets the standards and requirements of this section. A system that cannot meet the requirements of this section shall be regulated as a large WECS.
- C. Tower Height.** For parcels of less than 2 acres in area, the tower height (not including the blades) shall be limited to 40 feet. For parcels with land area greater than 2 acres and located in the Ag, Res Ag, Res, Commercial, and Industrial districts, the tower height (not including the blades) shall be limited to 60 feet.
- D. Setback.** The tower shall be setback from all adjoining property lines and rights-of-way (public or private) the combined height of the tower and the turbine blade in its vertical position. (“Fall zone”) No part of the small WECS, including guy wire anchors, may extend into any adjacent yard or property. (Note: property owner may arrange an “easement: with an adjacent property owner to acquire their needed “fall zone: footage.)
- E. Noise.** The applicant shall provide evidence that a small windmill will not cause sounds in excess of 60 dB, as measured at any property line.
- F. Approval Required.** Small WECS shall bear an approval certificate from a certification program recognized by the American Wind Energy Association and all approvals, impact analyses, site plan applications, etc. shall be submitted to the Township Zoning Administrator.
- G. Compliance with Uniform Building Code.** Building permit applications for small WECS shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the Uniform Building Code and certified by a licensed professional engineer shall also be submitted.
- H. Utility Notification.** No small WECS shall be installed until evidence has been given that the utility company has been informed of the customer’s intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

- I. Abandonment.** A small WECS that is inoperable and has not functioned for at least six (6) months shall be deemed to have been abandoned and the Zoning Administrator may order the removal of the turbine and tower.
- J. Additional Turbines.** A small WECS system may include more than one turbine and tower if all other requirements are met and the total of all turbines on the site does not exceed 100 kilowatts (kW).

### **Section 3. Large Wind Energy Conversion Systems are regulated as follows:**

**Large Wind Energy Conversion System.** The following standards shall apply to all Large Wind Energy Conversion Systems (WECS) as defined herein except wind monitoring stations. Refer to above for regulations related to small WECS for regulations governing wind monitoring stations.

- A. Impact Analysis Required.** In addition to the special use application as required in the Zoning Ordinance, the applicant shall submit an evaluation of the likely impacts of the proposed facility in the following areas:

- (1) Noise and vibration at any property line,
- (2) Potential impacts on wildlife, including native and migrating birds, “shadow flicker: and glare impacts on adjacent properties, and
- (3) Aesthetic impacts of the WECS on adjoining properties.

- B. Required Site Plan.** In addition to the site plan required for a special land use permit, the applicant shall also submit an appropriately scaled site plan illustrating the following:

- (1) Property lines, dimension, acreage, and contours with appropriate intervals for site evaluation.
- (2) Location and elevation of the proposed large WECS.
- (3) Location and dimensions of all existing structures and uses on the lot within 300 feet of the systems.
- (4) Height of any structures or trees over thirty-five (35) feet within a five hundred (500) foot radius on-site or off-site of the proposed large WECS.
- (5) Surrounding land use and all structures irrespective of height, within five hundred (500) feet of the large WECS location.

- C. Additional Required Information.** The applicant shall also submit the following information:

- (1) Standard drawings of the structural components of the large WECS, including structures, tower, base, and footings. A registered engineer shall certify drawings and any necessary calculations that the system complies with all applicable local, state, and federal building, structural and electrical codes.
- (2) Evidence from a qualified individual that the site is feasible for a large WECS.

- (3) Certification from a registered engineer or qualified person that the rotor and overspeed control have been designed for the proposed use on the proposed site.
- (4) Evidence that there is a substantial need for the proposed use.
- (5) Registered engineer's certification of the design and safety of the proposed tower to withstand winds of eighty-five(85) miles per hour.
- (6) Registered engineer's certification that if the wind turbine were to fall, no building or structure – existing or potential – would be damaged.

#### **D. Setbacks.**

- (1) Large WCS shall maintain a minimum setback of two (2) times the total height of the tower and blade height from any property line.
- (2) Large WECS shall maintain a minimum setback of at least five (5) times the tower height and blade from the right-of-way line of any public road or highway.
- (3) In all cases the large WECS shall maintain a minimum distance of at least 1.25 times the tower and blade height from any habitable structure.

#### **E. Dimensions.**

- (1) A large WECS shall be located on a parcel at least two and one-half (2-1/2) acres in size.
- (2) A large WECS shall not exceed a total tower and blade height of one hundred fifty (150) feet unless the parcel on which the large WECS is to be located is ten (1) acres or larger, in which case the maximum total tower and blade height may be two hundred (200) feet.
- (3) In all cases the minimum height of the lowest position of the large WECS blade shall be at least thirty (30) feet above the ground.
- (4) An approved large WECS shall be exempted from height restrictions of the zoning district.

#### **F. General Siting and Design Standards.**

- (1) Large WECS shall be designed and placed in such a manner to minimize, to the greatest extent feasible, adverse visual and noise impacts on neighboring areas.
- (2) Colors and surface treatment of the large WECS and supporting structures shall, to the greatest extent feasible, minimize disruption of the natural characteristics of the site.
- (3) Large WECS shall be equipped with air traffic warning lights or other marking lights only if so required by the Federal Aviation Administration and in which event, such lighting shall be positioned to avoid undue visual impact on neighboring properties.

### **G. Safety Measures.**

- (1) Each large WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
- (2) The Planning Commission shall determine the height, color, and type of fencing for the large WECS installation.
- (3) Appropriate warning signs shall be posted. The Planning Commission shall determine the type and placement of the signs, pursuant to Paragraph 8 below.
- (4) Each large WECS shall be properly grounded to safety sustain natural lightning strikes in conformance with the National Electrical Code.
- (5) Any large WECS facility shall be equipped with anti-climbing devices. Tower climbing apparatus shall not be located within twelve (12) feet of the ground. A locked, protective fence at least six (6) feet high shall enclose a tower capable of being climbed.
- (6) The large WECS operator shall maintain a current insurance policy which will cover installation and operation of the large WECS. The amount of said policy shall be established as a condition of approval. The applicant shall provide documentation or other evidence from the dealer or manufacturer that the large WECS can be successfully operated in the Climatic conditions found in Sodus Township.
- (7) The large WECS shall be warranted against any systems failures reasonably expected in severe weather operation conditions as a condition of approval.
- (8) Large WECS shall include no sign or advertising of any kind, except for one sign, not to exceed two (2) square feet posted at the base of the tower, and said sign shall contain the following information:
  - I "Warning: high voltage"
  - ii Manufacturer's name
  - iii Operator's name
  - iv Emergency phone number
  - v Emergency shutdown procedures

**H. Radio and Television interference.** A large WECS shall be designed and constructed so as not to cause radio and television interference.

**I. Removal Required.** If any large WECS remains non-functional or inoperative for a continuous period of one (1) year, the permittee shall remove said system at his/her/their expense. Removal of the system shall mean the entire structure, including foundations, transmission equipment, and fencing, from the property.

If removal of towers and appurtenant facilities is required and the permit holder, or successors, fails to remove the towers and appurtenant facilities from the property within thirty (30) days from the date of notification by the Zoning Administrator, Sodus Township may proceed to remove the towers and appurtenant facilities; in which case, the salvage becomes property of the Township; and costs of removing the facilities will remain the burden of the permit holder. To assure removal of an obsolete, inoperable or abandoned facility, the Township may require of the applicant a financial guarantee.

**J. Primary Use.** A wind monitoring station may be approved by the Planning Commission either as a principal or accessory use, however, all other components of a large WECS shall be considered a principal use on a parcel of land.

**Section 4. Submission of Documents and Notices.**

All documents and notices required by both large and small Wind Energy Conversion Systems shall be submitted as required to the Zoning Administrator for review and approval.

**Section 5. Severability.**

If any section clause, or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses by declared invalid.

**Section 6. Effective Date.**

This ordinance shall become effective eight (8) days after publication.

A motion that the foregoing Ordinance be enacted was made by Karen Morgan \_\_\_\_\_ and supported by Ken Peters at a regular meeting of the Sodus Township Board on the 24<sup>th</sup> day of May, 2011.

The names of the Township Board members and their votes are as follows:

NAME	YES	NO
Michele Bennett	<u>  x  </u>	___
Virginia Palis	<u>  x  </u>	___
Karen Morgan	<u>  x  </u>	___
Marie Grajauskis	<u>  x  </u>	___
Kenneth Peters	<u>  x  </u>	___



CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of the Wind Energy Conversion Systems Ordinance adopted by the Sodus Township Board at a meeting held on the 24 day of May, 2011, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meeting Act, Act No. 267 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

Dated: May 24, 2011

\_\_\_\_\_  
Virginia Palis, Township Clerk

PUBLICATION

I hereby certify that a summary of the foregoing Ordinance was published in the Journal Era, Berrien Springs, Michigan, on the 8 day of June, 2011.

\_\_\_\_\_  
Virginia Palis, Township Clerk