

COMPILATION OF GENERAL AND ZONING ORDINANCES

TOWNSHIP OF
PAVILION

COUNTY OF KALAMAZOO
STATE OF MICHIGAN

Published by Order of the Township Board, 1993

municode



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PREFACE

This is a compilation of ordinances of the Township of Pavilion, which includes currently operative ordinances, compiled with all amendments through and including an ordinance adopted October 21, 1991.

The chronological listing of all ordinances, including title and location within the compilation, reflects all ordinances adapted, amended or repealed, thus providing a valuable record of the municipality's ordinance history. Ordinances which are printed in their entirety are classified by subject matter and assigned to one of eleven basic categories. Each of these categories is indicated by a tab. Every ordinance is introduced with a part number, a title concerning the context, the ordinance number, and the adoption date.

Section headings in boldface type have been provided, if not supplied in the original copy, to facilitate usage. Sections that are subsequently amended are followed by a history note indicating the adoption date of the amendment. Cross reference notations are included to provide quick referral to other ordinances and/or sections dealing with similar subjects.

Running heads at the top of the page contain an abbreviated title, the ordinance number and/or date and section numbers to provide a guide for locating specific information quickly. The section number appearing in the running head on the left-hand page cites the section material beginning the page; the number on the right-hand page cites the section material concluding the page.

The exact wording of the ordinances has been preserved. Since ordinances are legal documents, editorial changes in a compilation are minor, limited primarily to correction of obvious typographical errors and resolving, upon specific instructions from the municipality, any duplications and inconsistencies brought to their attention during the preparation of the proof copy of the compilation. Any additions to text by the editor appear in brackets.

Numbering System

Each ordinance is assigned a part number. The part number is used to identify the ordinance primarily for indexing and cross reference purposes. Each succeeding article and/or section deriving from that ordinance will have the same number on the left-hand side of the decimal point. For example, section number 12.004 refers to section 4 of the ordinance assigned to part 12. Part numbers allow for expansion within each of the categories and within the compilation as a whole.

(Index or Indices)

The alphabetical index permits easy location of ordinances by subject. Main entries are in all uppercase letters. Under the entry for each ordinance, the catchlines of all sections appear in lowercase, indented and alphabetized. Cross references and additional entries are provided where necessary to direct the user to a particular topic. In preparing the index the proper balance has been achieved between creating an index comprehensive enough to be useful and yet not so detailed that it requires extensive revision each time an ordinance is enacted, repealed, or amended.

Looseleaf Supplements

Since an ordinance compilation, unlike a bound book, is constantly in a state of evolution, a special feature of this compilation is the looseleaf system of binding. With this system, the compilation can easily be kept up-to-date by submitting copies of new ordinances or amendments as they are enacted. These will then be incorporated by the editor into the compilation, and the appropriate pages will be revised or created for distribution to the holders of copies, with specific instructions for the manner of removing obsolete pages and inserting the current ones. Through regular supplementation, the compilation will continue to remain current and useful.

LISTING OF ORDINANCES

| Ord. No. | Subject | Location |
|----------|--|----------------|
| 1 | Zoning Ordinance (Superseded by Ord. No. 91) | |
| 2—6 | Amendments to Zoning Ord. No. 1 (Superseded by Ord. No. 91) | |
| 7 | Plat Ordinance (Superseded by Ord. No. 32) | |
| 8 | Amendments to Building Code Ordinance of 2-23-60 (Superseded by Ord. No. 46) | |
| 9, 10 | Amendments to Zoning Ord. No. 1 (Superseded by Ord. No. 91) | |
| 11 | Dumping Ground Ordinance | <u>110.000</u> |
| 12, 13 | Amendments to Zoning Ord. No. 1 (Superseded by Ord. No. 91) | |
| 14 | Litter, Debris, and Earth Levelling Ordinance (Repealed by Ord. No. 161) | |
| 15 | Anti-Noise and Public Nuisance Ordinance | <u>90.000</u> |
| 16 | Amendments to Building Code Ordinance of 2-23-60 (Superseded by Ord. No. 46) | |
| 16-97 | Sewer Connection Resolution (Superseded by Ord. No. 119) | |
| (Res.) | | |
| 17—26 | Amendments to Zoning Ord. No. 1 (Superseded by Ord. No. 91) | |
| 27 | Zoning—Not Adopted | |
| 28 | Fire Prevention Ordinance (Repealed by Ord. No. 97) | |
| 29 | Plumbing Ordinance (Superseded by Ord. No. 48) | |
| 30 | Proposed Ordinance—Not passed | |
| 31 | Mobile Home Registry and Inspection Ordinance | <u>151.000</u> |
| 32 | Subdivision Control Ordinance (Repealed by Ord. No. 137) | |
| 33 | Outdoor Assembly Ordinance | <u>16.000</u> |

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|--------|--|----------------|
| 34 | Amendments to Zoning Ord. No. 1 (Superseded by Ord. No. 91) | |
| 35 | Amendments to Building Code Ordinance of 2-23-60 (Superseded by Ord. No. 46) | |
| 36 | Proposed Ordinance—Not passed | |
| 37 | Public Water and Sewer Service Ordinance | <u>113.000</u> |
| 38 | Not passed | |
| 39 | Amendment to Zoning Ord. No. 1—Not passed | |
| 40—42 | Amendments to Zoning Ord. No. 1 (Superseded by Ord. No. 91) | |
| 43 | Amendment to Building Code Ord. of 2-23-60 (Superseded by Ord. No. 46) | |
| 44 | Amendments to Zoning Ord. No. 1 (Superseded by Ord. No. 91) | |
| 45 | Amendments to Subdivision Ord. No. 32 (Repealed by Ord. No. 137) | |
| 46 | Building Code Ordinance (Superseded by Ord. No. 75) | |
| 47 | Amendments to Building Code Ordinance (Superseded by Ord. No. 75) | |
| 48 | Plumbing Code Ordinance | <u>147.000</u> |
| 49 | Amendments to Plumbing Code Ordinance | <u>148.000</u> |
| 50 | Amendments to Zoning Ord. No. 1 (Superseded by Ord. No. 91) | |
| 51 | Energy Code Ordinance | <u>149.000</u> |
| 52 | Electrical Code Ordinance (Superseded by Ord. No. 74) | |
| 53 | Public Hearing—No board action | |
| 54 | Sewage Rate and Mandatory Connection Ordinance (Repealed by Ord. No. 59) | |
| 55, 56 | Amendments to Zoning Ord. No. 1 (Superseded by Ord. No. 91) | |
| 57 | Fiscal Year (Superseded by Ord. No. 73) | |
| 58 | Sewage Disposal System Revenue Bonds Ordinance | <u>112.000</u> |
| 59 | Sewage Rate and Mandatory Connection Ordinance (Superseded by Ord. No. 98) | |
| 60 | Amendments to Sewage Disposal System Revenue Bonds Ordinance | 77.004, 77.008 |
| 61 | Amendments to Sewage Rate and Mandatory Connection Ord. No. 59 (Superseded by Ord. No. 98) | |
| 62 | Gas Franchise | <u>30.000</u> |
| 63 | Uniform Mechanical Code Ordinance (Superseded by Ord. No. 76) | |
| 64, 65 | Amendments to Electrical Code Ord. No. 52 (Repealed by Ord. No. 74) | |
| 66 | Uniform Building Code Ordinance (Superseded by Ord. No. 75) | |
| 67 | Amendments to Sewage Rate and Mandatory Connection Ord. No. 59 (Superseded by Ord. No. 98) | |
| 68 | Sewer Ordinance (Superseded by Ord. No. 119) | |
| 69 | Amendment to Zoning Ord. No. 1 (Superseded by Ord. No. 91) | |
| 70 | Local Official Compensation Commission—Not acted on | |
| 71 | Liquor License Ordinance | <u>15.000</u> |
| 72 | Not Adopted | |
| 73 | Fiscal Year | <u>1.000</u> |
| 74 | Electrical Code Ordinance (Repealed by Ord. No. 89) | |
| 75 | Building Code Ordinance (Superseded by Ord. No. 88) | |
| 76 | Uniform Mechanical Code (Superseded by Ord. No. 90) | |
| 77 | Amendments to Zoning Ord. No. 1 (Superseded by Ord. No. 91) | |
| 78 | Not Passed | |
| 79 | Not Adopted | |
| 80 | Amendments to Zoning Ord. No. 1 (Superseded by Ord. No. 91) | |
| 81 | Amendment to Zoning Ord. No. 1 (Superseded by Ord. No. 91) | |
| 82 | Amendment to Zoning Ord. No. 1—Not Adopted | |

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| 83 | Amendments to Zoning Ord. No. 1 (Superseded by Ord. No. 91) | |
| 84 | Not Passed | |
| 85 | Not Passed | |
| 86 | Dangerous Buildings Ordinance | <u>131.000</u> |
| 87 | Not Adopted | |
| 88 | Uniform Building Code (Superseded by Ord. No. 95) | |
| 89 | Michigan Electrical Code Ordinance (Repealed by Ord. No. 100) | |
| 90 | Uniform Mechanical Code (Superseded by Ord. No. 96) | |
| 91 | Zoning Ordinance | <u>200.000</u> |
| 92 | Pension Plan Ordinance | <u>2.000</u> |
| 93 | Amendments to Zoning Ord. No. 91 | <u>200.201(1),</u> |
| | <u>200.403(4.33ka), (m3), (m3c), (m4a3),</u> | |
| | <u>(m5a), (m5b), (5c), (4.53c)</u> | |
| | <u>200.607, 200.614,</u> | |
| | <u>200.614(11), App. A, App. B</u> | |
| 94 | Not Adopted | |
| 95 | Uniform Building Code (Superseded by Ord. No. 100) | |
| 96 | Mechanical Code (Superseded by Ord. No. 100) | |
| 97 | Uniform Fire Code and Uniform Fire Code Standards | <u>130.000</u> |
| 98 | Sanitary Sewer Connection and Service Charge Ordinance (Superseded by Ord. No. 108) | |
| 99 | Cemetery Ordinance—Not Adopted | |
| 100 | Building Code | <u>145.000</u> |
| 101 | Group Insurance Plan | <u>3.000</u> |
| 102 | Cable Television Rate Regulation | <u>17.000</u> |
| 103 | Cemetery Ordinance | <u>116.000</u> |
| 104 | Residential Waste Reduction | <u>18.000</u> |
| 105 | Amendments to Zoning Ord. No. 91 | <u>200.201(43),</u> |
| | <u>200.302, 200.403, 200.404,</u> | |
| | <u>200.411—200.415, 200.604,</u> | |
| | <u>200.608, 200.611, 200.614,</u> | |
| | <u>200.615, 200.902</u> | |
| 106 | Cost Recovery for Emergency Hazardous Waste Clean-Up | <u>132.000</u> |
| 107 | Parcel Rezoning (no ordinance documentation) | |
| 108 | Sanitary Sewer Connection and Service Charge Ordinance (Superseded by Ord. No. 119) | |
| 109 | Parcel Rezoning (no ordinance documentation) | |
| 110 | Land Division Ordinance (Superseded by Ord. No. 112) | |
| 111 | Amendments: | |
| | Subdivision Control, Ord. No. 32 (Repealed by Ord. No. 137) | |
| | Zoning Ord. No. 91 | <u>200.614</u> (Footnote 11) |
| 112 | Land Division Ordinance | <u>176.000</u> |
| 113 | Parcel Rezoning (no ordinance documentation) | |
| 114 | Parcel Rezoning (no ordinance documentation) | |
| 115 | Rescinded: Emergency Fees (no ordinance documentation) | |
| 116 | Parcel Rezoning Withdrawn (no ordinance documentation) | |
| 117 | Parcel Rezoning (no ordinance documentation) | |
| 118 | Amendments to Zoning Ord. No. 91 | <u>200.403,</u> |
| | <u>200.404, 200.411—200.415, 200.608, 200.615, 200.1110—200.1116</u> | |

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| 119 | Sewage Disposal System: Rates, Usage, Regulations, Mandatory Connection and Enforcement | <u>114.000</u> |
| 120 | Escrow Fees | <u>177.000</u> |
| 121 | Amendment to Building Code Ord. No. 100 | <u>145.004</u> |
| 122 | Amendment to Sewage Disposal System Ord. No. 119 | <u>114.005</u> |
| 123 | Amendments to Zoning Ord. No. 91 | <u>200.201,</u> <u>200.501, 200.602, 200.614, 200.1300—200.1306</u> |
| 124 | Firearms Regulation | <u>60.000</u> |
| 125 | Amendments to Subdivision Control Ord. No. 32 (Repealed by Ord. No. 137) | |
| 126 | Amendments to Zoning Ord. No. 91 | <u>200.607</u> |
| 127 | Parcel Rezoning (no ordinance documentation) | |
| 128 | Amendments to Subdivision Control Ord. No. 32 (Repealed by Ord. No. 137) and Zoning Ord. No. 91 | <u>200.500,</u> <u>200.502</u> |
| 129 | Amendments to Zoning Ord. No. 91 | <u>200.402,</u> <u>200.416</u> |
| 130 | Amendments to Zoning Ord. No. 91 | <u>200.414,</u> <u>200.614, 200.615, 200.1400, 200.1401</u> |
| 131 | Amendments to Sewage Disposal System Ord. No. 119 | <u>114.003—</u> <u>114.005, 114.010, 114.100</u> |
| 132 | Amendments to Zoning Ord. No. 91 (text and parcel rezoning) | <u>200.402,</u> <u>200.404, 200.614, 200.902, 200.1300, 200.1303</u> |
| 133 | Amendments to Zoning Ord. No. 91 (text and parcel rezoning) | <u>200.201,</u> <u>200.403, 200.404, 200.410, 200.416,</u> <u>200.604, 200.608, 200.614, 200.802,</u> <u>200.804, 200.901, 200.1114, 200.1305</u> |
| 134 | Amendments to Zoning Ord. No. 91 (text and parcel rezoning) | <u>200.614</u> |
| 135 | On Hold | |
| 136 | Amendments to Zoning Ord. No. 91 | <u>200.201,</u> <u>200.302</u> |
| 137 | Subdivision/Site Condominium Ordinance | <u>175.000</u> |
| 138 | Amendment to Zoning Ord. No. 91 | <u>200.606</u> |
| 139 | Amendment to Zoning Ord. No. 91 | <u>200.103, 200.406,</u> <u>200.411, 200.412, 200.801,</u> <u>200.802, 200.902, 200.1306.B.3</u> |
| 140 | Parcel Rezoning (no ordinance documentation) | |
| 141 | On Hold | |
| 142 | Amendments to Residential Waste Reduction Ord. No. 104 | <u>18.102,</u> <u>18.301—18.303, 18.305,</u> <u>18.501, 18.505</u> |
| 143 | Amendments to Zoning Ord. No. 91 | <u>200.201, 200.403—200.409,</u> <u>200.411, 200.412, 200.602,</u> <u>200.604, 200.611, 200.614,</u> <u>200.1114</u> |
| 144 | Amendments to Zoning Ord. No. 91 | <u>200.1500</u> |
| 145 | Parcel Rezoning (no ordinance documentation) | |
| 146 | Parcel Rezoning (no ordinance documentation) | |
| 146/2 | Consumer Energy Company Gas Franchise Ordinance | <u>30.000—30.009</u> |
| | Added | <u>30.000—30.011</u> |

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| <u>147</u> | Amendments to Zoning Ord. No. 91 | 200.302c.(2), <u>200.303</u> , 200.502H., <u>200.1114 2.(v)</u> |
| <u>148</u> | Amendments to Zoning Ord. No. 91 | <u>200.902</u> |
| <u>149</u> | Planning Commission Ordinance | <u>200.1600</u> |
| <u>150</u> | Parcel Rezoning (no ordinance documentation) | |
| <u>151</u> | Amendments to Zoning Ord. No. 91 | <u>200.405</u> , <u>200.608</u> , <u>200.902</u> |
| <u>152</u> | Electric Franchise | <u>31.000</u> — <u>31.011</u> |
| <u>153</u> | Noxious Weed Ordinance | <u>91.000</u> — <u>91.007</u> |
| <u>154</u> | Municipal Civil Infractions Procedure Ordinance | <u>61.000</u> — <u>61.008</u> |
| <u>155</u> | Municipal Infractions, Violations, and Penalties | <u>200.703</u> , <u>200.704</u> |
| <u>156</u> | Amendments to Zoning Ord. No. 91 | <u>200.403</u> — <u>200.407</u> , <u>200.411</u> — <u>200.413</u> , <u>200.415</u> , <u>200.416</u> , <u>200.603</u> , <u>200.611</u> , <u>200.614</u> , <u>200.1500</u> |
| <u>157</u> | Amendments to Zoning Ord. No. 91 | <u>200.403</u> , 4.43 o., p. |
| <u>158</u> | Amendments to Civil Infractions Procedural Ordinance Ord. No. 154 | <u>61.007</u> , <u>61.008</u> |
| <u>159</u> | Parcel Rezoning (no ordinance documentation) | |
| <u>160</u> | Parcel Rezoning (no ordinance documentation) | |
| <u>161</u> | Litter | <u>111.000</u> <u>130.000</u> (footnote) <u>200.000</u> (footnote) |
| <u>162</u> | Motor Vehicle Storage and Repair | <u>45.000</u> <u>200.000</u> (footnote) |
| <u>163</u> | Amendments to Zoning Ord. No. 91 | <u>200.201</u> <u>200.403</u> <u>200.608</u> |
| Added | <u>200.1700</u> — <u>200.1703</u> | |
| <u>164</u> | Prohibition of Marihuana Establishments Ordinance | <u>19.000</u> — <u>19.007</u> |
| <u>165</u> | Parcel Rezoning (no ordinance documentation) | |
| <u>166</u> | Parcel Rezoning (no ordinance documentation) | |
| <u>167</u> | Amendment to Subdivision/Site Condominium Ordinance Ord. No. 137 | <u>175.006</u> C.1.e. |
| <u>168</u> | Parcel Rezoning (no ordinance documentation) | |

SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code Book and are considered "Includes." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omits."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

| Ord. No. | Date Adopted | Include/Omit | Supp. No. |
|------------|-----------------|--------------|-----------|
| <u>147</u> | 7-22-10 | Include | <u>17</u> |
| <u>148</u> | 5-9-11 | Include | <u>18</u> |
| <u>149</u> | 7-11-11 | Include | <u>18</u> |
| <u>150</u> | 5-14-12 | Omit | <u>18</u> |
| <u>151</u> | 8-13-12 | Include | <u>18</u> |
| 152 | 5-13-13 | Include | <u>19</u> |
| 153 | 12-14-15 | Include | <u>19</u> |
| 154 | 5- 9-16 | Include | <u>19</u> |
| 155 | 8- 8-16 | Include | <u>19</u> |
| 156 | 10-10-16 | Include | <u>19</u> |
| 157 | 12-12-16 | Include | 20 |
| 158 | 9-11-17 | Include | 20 |
| 159 | 4-17-17 | Omit | 20 |
| 160 | 8-14-17 | Omit | 20 |
| 161 | 5-14-18 | Include | 20 |
| 162 | 5-14-18 | Include | 20 |
| 163 | 12-10-18 | Include | 21 |
| 164 | 12-10-18 | Include | 21 |
| 165 | 10-14-19 | Omit | 21 |
| 166 | <u>3</u> - 9-20 | Omit | 21 |

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|-----|----------|---------|----|
| 167 | 7-13-20 | Include | 21 |
| 168 | 10-12-20 | Omit | 21 |

1.000 - FISCAL YEAR Ord. No. 73 Adopted: April 9, 1984

An Ordinance to establish the fiscal year of the Township of Pavilion, County of Kalamazoo, State of Michigan and the annual meeting day for such Township, pursuant to Michigan Public Act 596 of 1978.

THE TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN HEREBY ORDAINS:

1.001 - Fiscal year established.

Sec. I. Commencing in 1979, the fiscal year of the Township shall extend from April 1st of each year until March 31st of the following year. Any pre-existing Township budget lawfully adopted by the Township Board shall be proportionately extended to coincide with the foregoing new fiscal year periods.

1.002 - Annual settlement day meeting.

Sec. II. The annual settlement day of the Township shall be in accordance with the laws of the State of Michigan.

1.003 - Annual meeting of the electors.

Sec. III. The annual meeting of the electors of the Township, where the same has not been abolished, shall be held on the last Saturday in the last month of the aforesaid fiscal year at such times and places as is determined by the Township Board. The annual meeting of the electors may be held on a day other than Saturday if the Township Board unanimously votes to hold the annual meeting on another day.

1.004 - Effective date.

Sec. IV. This Ordinance shall take immediate effect. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Effective: April 9, 1984

2.000 - PENSION PLAN Ord. No. 92 Adopted: April 2, 1990

An Ordinance to establish a pension plan for the officers and employees of Pavilion Township and to authorize the Township supervisor and the Township clerk to contract, in the name of the Township, for such plan; to define those classes of officers and employees who shall be covered by such pension plan; to describe the contributions to the pension plan; to establish the time at which existing and future officers and employees shall become eligible for the pension plan and to further establish the normal retirement ages for all officers and employees; to set forth a date wherein each person covered under the annuity or pension plan shall have a vested right or interest therein; and to repeal all Ordinances or parts of Ordinances in conflict herewith.

THE TOWNSHIP OF PAVILION, COUNTY OF KALAMAZOO AND STATE OF MICHIGAN, ORDAINS:

CHAPTER I

2.100 - TITLE

2.101 - Title.

Sec. 1.01. This Ordinance shall be known and may be cited as the "Pavilion Township Pension Plan Ordinance." Pavilion Township is referred to herein as the "Township."

CHAPTER II

2.200 - ESTABLISHMENT OF PENSION PLAN

2.201 - Establishment of pension plan.

Sec. 2.01. Pursuant to authority granted by Act 27 of the Michigan Public Acts of 1960, as amended, the Township hereby establishes a pension plan for the pensioning of its officers and full time employees, and, for such purposes, also hereby authorizes the Township supervisor and the Township clerk to contract, in the name of the Township, with any company authorized to transact business within the State of Michigan for annuities or pensions, for a group annuity, such annuity being referred to hereinafter as the "Contract." The pension plan shall hereinafter be referred to as the "Township Pension Plan."

CHAPTER III

2.300 - COVERAGE

2.301 - Coverage.

Sec. 3.01. The Township pension plan created and established under this Ordinance shall cover all Township officers, board of trustee members, and regular full time employees who are normally scheduled to and in fact do work 40 hours per week.

CHAPTER IV

2.400 - PENSION PLAN DETAILS

2.401 - Retirement benefits.

Sec. 4.01. Each person within the class of officers and employees enumerated in Sec. 3.01 [2.301] shall be entitled to, upon that person's normal retirement date, such retirement benefits as determined below, paid in such form as allowed by the contract and chosen by the person:

- (a) *The Township pension plan service.* For the period of employment with the Township during which the officers or

employee is eligible for participation in the Township pension plan, the benefit will be that amount which can be purchased by a Township contribution for each plan year beginning on April 1, 1990, the Township contribution shall be \$200.00 or ten percent of compensation paid to the officer or employee by the Township as taxable wages during the plan year in question, whichever is greater.

- (b) *Past service.* For the period of continuous employment with the Township prior to the effective date of the Township pension plan, the benefit will be three percent for each year of such employment up to a maximum of 20 years. The three percent will be of the annual compensation at time of the inception date.

2.402 - Township contribution.

Sec. 4.02. The Township shall contribute the entire premium or charges relating to past service, for each person within the class of officers and employees enumerated in Sec. 3.01 [Note: section 3.01 is now section 2.301] and 100 percent of the premium or charges relating to the Township pension plan service arising under the contract for each person within the class of officers and employees enumerated in Sec. 3.01 [Note: section 3.01 is now section 2.301]. Such contributions shall be secured from the general fund of the Township.

2.403 - Employee contribution.

Sec. 4.03. Each person within the class of officers and employees enumerated in Sec. 3.01 [Note: section 3.01 is now section 2.301] shall be allowed to contribute up to five percent of their annual compensation on an annual basis to the Township pension plan. Deductions to be made on a monthly basis from the employee's monthly compensation. (In no event will the total contribution from the Township and covered employee exceed 15 percent of annual compensation. The Township clerk is hereby authorized to deduct the same from each person's compensation and to apply the same to such person's responsibility.

2.404 - Eligibility requirements.

Sec. 4.04. Each officer and employee enumerated in Sec. 3.01 [Note: section 3.01 is now section 2.301] shall be eligible to participate in the Township pension plan on the effective date of the contract or the anniversary date of the contract, whichever is earlier, on which date the individual's age (nearest birthday) is at least 21 years.

2.405 - Retirement date.

Sec. 4.05. The pension plan as approved by the Township Board shall provide for a normal retirement age for the receipt of benefits; the accumulation of each beneficiary's pension account; the types of payments of benefits upon becoming eligible; benefits in the event of withdrawal as a result of death, total disability or termination of employment; funding, and investment provisions; and payment of plan expenses.

2.406 - Vesting.

Sec. 4.06. Each officer or employee covered under the Township pension plan shall have a nonforfeitable interest therein of 100 percent in the Township pension plan.

2.407 - Other details.

Sec. 4.07. The contract shall control in resolving any questions which may arise under the Township pension plan not otherwise provided for herein.

CHAPTER V

2.500 - MISCELLANEOUS MATTERS

2.501 - Pension plan effective date.

Sec. 5.01. The effective date for the Township pension plan shall be April 2, 1990, and the anniversary date shall be each following April 2nd.

2.502 - Construction of Ordinance.

Sec. 5.02. The headings of the titles, chapters, and sections of this Ordinance are for convenience only and shall not be considered in any construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.

2.503 - Severability.

Sec. 5.03. This Ordinance and the various parts, titles, chapters, sections, subsections, paragraphs, sentences, phrases and clauses hereof are hereby declared to be severable. If any part, title, chapter, section, subsection, paragraph, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

2.504 - Repeal.

Sec. 5.04. All other Ordinances and parts thereof which are in conflict in whole or in part with any of the provisions of this Ordinance are hereby repealed.

2.505 - Ordinance effective date.

Sec. 5.05. This Ordinance was approved and adopted by the Township Board of Pavilion Township, Kalamazoo County, Michigan, on April 2, 1990.

3.000 - GROUP INSURANCE PLAN Ord. No. 101 Adopted: August 9, 1993

An Ordinance to create and establish a Township group insurance plan covering life, health, hospitalization, medical and surgical service and expense and accident insurance for certain classes of township officers and employees and their dependents and to authorize the Township supervisor and the Township clerk to contract, in the name of the Township, for such plan; to define those classes of officers and employees who shall be covered by such group insurance plan; to set forth the respective per centum shares which Pavilion Township and the officers and employees shall contribute to the premium or charges arising under such group insurance plan and further provide for the deduction of contributions from officers' and employees' compensation; to provide a method for noncoverage of an officer or employee of the group insurance plan; to ratify and confirm the validity of any group insurance plan in existence on the effective date of this Ordinance; and to repeal all ordinances or parts of ordinances in conflict herewith.

THE TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN ORDAINS AS FOLLOWS:

3.001 - Title.

Sec. I. This Ordinance shall be known and cited as the Pavilion Township Group Insurance Plan Ordinance.

3.002 - Assumption of responsibility.

Sec. II. Pursuant to 1989 PA 77; MCL 41.110(b); MSA 5.159(2); the Township of Pavilion hereby creates and establishes a group insurance plan covering life, health, hospitalization, medical and surgical service and expense and accident insurance of its officers enumerated herein, and for such purposes, also hereby authorizes the Township supervisor and the Township clerk to contract, in the name of the Township Board, subject to approval of the Township Board, with any company authorized to transact such business within the State of Michigan for such group insurance policies.

3.003 - Coverage.

Sec. III. The group insurance plan created, established and contracted for under this Ordinance shall cover all members of the Township Board, but shall not cover the dependents of such person.

3.004 - Contributions.

Sec. IV. The Township of Pavilion shall annually contribute one hundred (100) per centum of the portion of the premium or charges arising under such life insurance contract for each person within the class of persons enumerated in Section 3 [Section 3.003] hereof. Additionally, the Township of Pavilion shall annually contribute one hundred (100) per centum of that portion of the premium or charges under such health, hospitalization, medical and surgical service and expense and accident insurance contract for each person within the class of persons enumerated in Section 3 [Section 3.003] hereof. Such Township contribution shall be secured from the general fund of the Township. Any person desiring not to be so covered shall give written notice to the Township clerk that he desires not to be insured or covered, and if the notice is received before the person has become insured or covered under the contract, he shall not be covered thereunder. If the notice is received after the individual has become insured or covered, his coverage under the contract shall cease as provided for in the contract.

3.005 - Validity of existing insurance.

Sec. V. The Township of Pavilion hereby ratifies and confirms the validity of any life, health, hospitalization, medical and surgical service and expense and accident insurance or any one or more of such forms of insurance in existence on the effective date of this Ordinance.

3.006 - Effective date.

Sec. VI. This Ordinance shall take effect on the date of its publication. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

15.000 - LIQUOR LICENSE Ord. No. 71 Adopted: January 5, 1984

An Ordinance to establish procedures and standards for review of applications, renewals and revocations of licenses to sell beer, wine or spirits.

THE TOWNSHIPS OF ALAMO, BRADY, CHARLESTON, COOPER, PAVILION, PRAIRIE RONDE, AND TEXAS, KALAMAZOO COUNTY, MICHIGAN ORDAINS:

Footnotes:

--- (1) ---

Cross reference— *Zoning, §§ 200.411, 200.412.*

15.001 - Title.

Sec. I. This Ordinance shall be known and may be cited as the "Township Liquor License Ordinance."

15.002 - Applications for new license.

Sec. II.

A. *Application.* Applications for a license to sell beer, wine or spirits shall be made to the Township Board in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership or corporation, verified by oath or affidavit, and shall contain the following statements and information:

1. The name, age, and address of the applicant in the case of an individual; or, in the case of a copartnership, the persons entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and, if a majority interest in the stock of such corporation is owned by one person or his nominee, the name and address of such person.
2. The citizenship of the applicant, his place of birth, and, if a naturalized citizen, the time and place of his naturalization.
3. The character of business of the applicant, and in the case of a corporation, the object for which it was formed.
4. The length of time said applicant has been in business of that character, or, in the case of a corporation, the date when its charter was issued.
5. The location and description of the premises of place of business which is to be operated under such license.
6. A statement whether applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application.
7. A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this Ordinance or the laws of the State of Michigan.
8. A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any Ordinances of the Township in the conduct of its business.
9. The application shall be accompanied by building and plot plans showing the entire structure and premises and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and where appropriate, adequate plans for screening, and noise control.

B. *Restrictions on licenses.* No such license shall be issued to:

1. A person whose license, under this Ordinance, has been revoked for cause.
2. A person who, at the time of application or renewal of any license issued hereunder, would not be eligible for such license upon a first application.
3. A copartnership, unless all of the members of such copartnership shall qualify to obtain a license.
4. A corporation, if any officer, manager, or director thereof, or a stock owner or stockholder owning more than five percent of the stock of such corporation would not be eligible to receive a license hereunder for any reason.
5. A person whose place of business is conducted by a manager or agent unless such manager or agent

possesses the same qualifications required of the licensee.

6. A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor or a controlled substance.
 7. A person who does not own the premises for which a license is sought or does not have a lease therefor for the full period for which the license is issued, or to a person, corporation or copartnership that does not have sufficient financial assets to carry on or maintain the business.
 8. Any law enforcing public official or any member of the Township Board, and no such law enforcement official shall be interested in any way either directly or indirectly in the manufacture for sale or distribution of alcoholic liquor.
 9. For premises where there exists a violation of the applicable Building, Electrical, Mechanical, Plumbing or Fire Codes, applicable zoning regulations, applicable public health regulations, or any other applicable Township Ordinance.
 10. For any new license or for the transfer of location of any existing license unless the sale of beer, wine, or spirits is shown to be incidental and subordinate to other permitted business uses upon the site, such as but not limited to food sales, motel operations, or recreational activities.
 11. For premises where it is determined by a majority of the Board that the premises do not or will not reasonably soon after commencement of operations have adequate off-street parking, lighting, refuse disposal facilities, screenings, noise, or nuisance control or where a nuisance does or will exist.
 12. Where the Board determines, by majority vote, that the proposed location is inappropriate considering the desirability of establishing a location in developed, commercial areas, in preference to isolated, undeveloped areas; the attitude of adjacent residents and property owners; traffic safety; accessibility to the site from abutting roads; capability of abutting roads to accommodate the commercial activity; distance from public or private schools for minors; proximity of the inconsistent zoning classification; and accessibility from primary roads or state highways.
- C. *Term of license.* Approval of a license shall be for a period of one year subject to annual renewal by the Township Board upon continued compliance with the regulations of this Ordinance. Approval of a license shall be with the understanding that any necessary remodeling or new construction for the use of the license shall be commenced within six months of the action of the Township Board or the Michigan Liquor Control Commission approving such license whichever last occurs. Any unusual delay in the completion of such remodeling or construction may subject the license to revocation.
- D. *Reservation of authority.* No such applicant for a liquor license has the right to the issuance of such license to him, her or it, and the Township Board reserves the right to exercise reasonable discretion to determine who, if anyone, shall be entitled to the issuance of such license. Additionally, no applicant for a liquor license has the right to have such application processed and the Township Board further reserves the right to take no action with respect to any application filed with the Township Board. The Township Board further reserves the right to maintain a list of all applicants and to review the same when, in its discretion, it determines that the issuance of an additional liquor license is in the best interests of the Township at large and for the needs and convenience of its citizens.
- E. *License hearing.* The Township Board shall grant a public hearing upon the license application when, in its discretion, the Board determines that the issuance of an additional liquor license is in the best interests of the Township at large and for the needs and convenience of its citizens. Following such hearing the Board shall

submit to the applicant a written statement of its findings and determination. The Board's determination shall be based upon satisfactory compliance with the restrictions set forth in paragraph B.1 through 12 above.

Cross reference— Uniform Fire Code, Pt. 130; Uniform Building Code, Pt. 145; Michigan Electrical Code, Pt. 146; plumbing code, Pt. 147; energy code, Pt. 149; mechanical code, Pt. 150.

15.003 - Objections to renewal and request for revocation.

Sec. III.

A. *Procedure.* Before filing an objection to renewal or request for revocation of a license with the Michigan Liquor Control Commission, the Township Board shall serve the license-holder, by first class mail, mailed not less than ten days prior to hearing with notice of a hearing, which notice shall contain the following:

1. Notice of proposed action.
2. Reasons for the proposed action.
3. Date, time and place of hearing.
4. A statement that the licensee may present evidence and testimony and confront adverse witnesses.

Following the hearing, the Township Board shall submit to the licenseholder and the Commission a written statement of its findings and determination.

B. *Criteria for nonrenewal or revocation.* The Township Board shall recommend nonrenewal or revocation of a license upon a determination by it that based upon a preponderance of the evidence presented at hearing either of the following exist:

1. Violation of any of the restrictions on licenses set forth in paragraph B.1 through 12 above; or,
2. Maintenance of a nuisance upon the premises.

15.004 - Severability.

Sec. IV. Should any section or part thereof of this Ordinance be declared unconstitutional, null or void by a court of competent jurisdiction, such declaration shall not affect the validity of the remaining sections or parts thereof of this Ordinance.

15.005 - Effective date.

Sec. V. This Ordinance shall take effect on the fifth day of January, 1984. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

16.000 - OUTDOOR ASSEMBLY Ord. No. 33 Adopted: September 3, 1970

An Ordinance to require the regulation, licensing and control of assemblages of large numbers of people in excess of those normally drawing upon the health, sanitation, fire, police, transportation, utility and other public services regularly provided in the Township.

THE TOWNSHIP OF PAVILION, COUNTY OF KALAMAZOO, MICHIGAN ORDAINS:

16.001 - Title, purpose, and authority.

Sec. 1.

- 1.1. *Title.* This Ordinance shall be known as the Township Outdoor Assembly Ordinance.
- 1.2. *Purpose.* The purpose of this Ordinance is to require the regulation, licensing and control of assemblages of large numbers of people in excess of those normally drawing upon the health, sanitation, fire, police, transportation, utility and other public services regularly provided in the Township.
- 1.3. *Authority.* This Ordinance is enacted pursuant to the authority of Act 246 of Public Acts of 1945 as amended, which authorized the Township Board to adopt Ordinances, to secure the public health, safety and general welfare.

16.002 - Definitions.

Sec. 2.

- (a) "Outdoor assembly", hereinafter referred to as "assembly" means any event, attended by more than five thousand attendants, all or any part of which includes a theatrical exhibition, public show, display, entertainment, amusement or other exhibition, including, but not limited to musical festivals, rock festivals, peace festivals or similar gatherings, but does not mean:
1. An event which is conducted or sponsored by a governmental unit or agency on publicly owned land or property; or
 2. An event which is conducted or sponsored by any entity qualifying for tax exempt status under Section 501 (c) (3) of the Internal Revenue Code of 1954, being 26 U.S.C. S501 (c) (3), as incorporated by reference in Section 201 of the Michigan Income Tax Act of 1967, Act 281 of the Public Acts of 1967, being Section 206.201 of the Compiled Laws of 1948; or
 3. An event held entirely within the confines of a permanently enclosed and covered structure.
- (b) "Person" means any natural person, partnership, corporation, association or organization.
- (c) "Sponsor" means any person who organizes, promotes, conducts, or causes to be conducted an outdoor assembly.
- (d) "Attendant" means any person who obtains admission to an outdoor assembly by the payment of money or by the rendering of services in lieu of the payment of money for admission.
- (e) "Licensee" means any person to whom a license is issued pursuant to this Ordinance.

16.003 - License requirement.

Sec. 3. A person shall not sponsor, operate, maintain, conduct or promote an outdoor assembly in the Township unless he shall have first made application for, and obtained, as hereinafter prescribed, a license for each such assembly.

16.004 - Application for license.

Sec. 4. Application for a license to conduct an outdoor assembly must be made in writing on such forms and in such manner as prescribed by the clerk of the Township and shall be made at least 60 days prior to date of the proposed assembly. Each application shall be accompanied by a nonrefundable fee of \$100.00 and shall include at least the following:

- (a) The name, age, residence and mailing address of the person making the application. (Where the person making the application is a partnership, corporation or other association, this information shall be provided for all partners, officers and directors, or members. Where the person is a corporation, a copy of the articles of

incorporation shall be filed, and the names and addresses shall be provided of all shareholders having financial interest greater than \$500.00).

- (b) A statement of the kind, character, and type of proposed assembly.
- (c) The address, legal description and proof of ownership of the site at which the proposed assembly is to be conducted. Where ownership is not vested in the prospective licensee, he shall submit an affidavit from the owner indicating his consent to the use of the site for the proposed assembly.
- (d) The date or dates and hours during which the proposed assembly is to be conducted.
- (e) An estimate of the maximum number of attendants expected at the assembly for each day it is conducted and a detailed explanation of the evidence of admission which will be used and of the sequential numbering or other method which will be used for accounting purposes.

16.005 - Additional rules and regulations.

Sec. 5. Each application shall be accompanied by a detailed explanation, including drawings and diagrams where applicable, of the prospective licensee's plans to provide for the following:

- (a) Police and fire protection.
- (b) Food and water supply and facilities.
- (c) Health and sanitation facilities.
- (d) Medical facilities and services including emergency vehicles and equipment.
- (e) Vehicle access and parking facilities.
- (f) Camping and trailer facilities.
- (g) Illumination facilities.
- (h) Communications facilities.
- (i) Noise control and abatement.
- (j) Facilities for clean up and waste disposal.
- (k) Insurance and bonding arrangements.

In addition, the application shall be accompanied by a map or maps of the overall site of the proposed assembly.

16.006 - Review and investigation.

Sec. 6. On receipt by the clerk, copies of the application shall be forwarded to the chief law enforcement and health officers for the Township and the state fire marshal, and to such other appropriate public officials as the clerk deems necessary. Such officers and officials shall review and investigate matters relevant to the application and within 20 days of receipt thereof shall report their findings and recommendations to the Township Board.

16.007 - Notification of approval or denial.

Sec. 7. Within 30 days of filing of the application, the Township Board shall issue, set conditions prerequisite to the issuance of, or deny, a license. The Township Board may require that adequate security or insurance be provided before a license is issued. Where conditions are imposed as prerequisite to the issuance of a license, or where a license is denied, within five days of such action, notice thereof must be mailed to the applicant by certified mail, and, in the case of denial, the reasons therefor shall be stated in the notice.

16.008 - Criteria for denial of license.

Sec. 8. A license may be denied if:

1. The applicant fails to comply with any or all requirements of this Ordinance, or with any or all conditions imposed pursuant hereto, or with any other applicable provision of state or local law; or,
2. The applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document.

16.009 - Contents of license; posting; nontransferability.

Sec. 9. A license shall specify the name and address of the licensee, the kind and location of the assembly, the maximum number of attendants permissible, the duration of the license and any other conditions imposed pursuant to this Ordinance. It shall be posted in a conspicuous place upon the premises of the assembly, and shall not be transferred to any other person or location.

16.010 - Additional requirements.

Sec. 10. In processing an application the Township Board shall, as a minimum, require the following:

- (a) *Security personnel.* The licensee shall employ at his own expense such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of attendants at the assembly and for the preservation of order and protection of property in and around the site of the assembly. No license shall be issued unless the Township Board in cooperation with the county sheriff and the director of state police is satisfied that such necessary and sufficient security personnel will be provided by the licensee for the duration of the assembly.
- (b) *Water facilities.* The licensee shall provide potable water, sufficient in quantity and pressure to assure proper operation of all water using facilities under conditions of peak demand. Such water shall be supplied from a public water system, if available, and if not available, then from a source constructed, located, and approved in accordance with Act 294, Public Acts of 1965, and the rules and regulations adopted pursuant thereto, and in a manner approved by the Kalamazoo County Health Department.

Cross reference— Public water and sewer, Pt. 113.

- (c) *Restroom facilities.* The licensee shall provide separate enclosed flush-type water closets as defined in Act 266, Public Acts of 1929, and the rules and regulations adopted pursuant thereto and in accordance with any other applicable state or local law. If such flush-type facilities are not available, the Township Board may permit the use of other facilities which are in compliance with Act 273, Public Acts of 1939, and the rules and regulations adopted pursuant thereto and in a manner approved by the Kalamazoo County Health Department.

The licensee shall provide lavatory and drinking water facilities constructed, installed and maintained in accordance with Act 266 of the Public Acts of 1929, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. All lavatories shall be provided with hot and cold water and soap and paper towels.

The number and type of facilities required shall be determined, on the basis of the number of attendants, in the following manner:

Facilities:

Toilets, Male - 1:300

Female - 1:200

Urinals, Male 1:100

Lavatories, Male 1:200

Female - 1:200

Drinking fountains - 1:500

Taps or faucets - 1:500

Where the assembly is to continue for more than 12 hours, the licensee shall provide shower facilities, on the basis of the number of attendants, in the following manner:

Facilities:

Shower heads, Male - 1:100

Female - 1:100

All facilities shall be installed, connected, and maintained free from obstructions, leaks and defects and shall at all times be in operable condition as determined by the Kalamazoo County Health Department.

Cross reference— Public water and sewer, Pt. 113; sewerage, Pt. 114.

- (d) *Food service.* If food service is made available on the premises, it shall be delivered only through concessions licensed and operated in accordance with the provisions of Act 269, Public Acts of 1968, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. If the assembly is distant from food service establishments open to the public, the licensee shall make such food services available on the premises as will adequately feed the attendants.
- (e) *Medical facilities.* If the assembly is not readily and quickly accessible to adequate existing medical facilities, the licensee shall be required to provide such facilities on the premises of the assembly. The kind, location, staff strength, medical and other supplies and equipment of such facilities shall be as prescribed by the Township Board.
- (f) *Liquid waste disposal.* The licensee shall provide for liquid waste disposal in accordance with all rules and regulations pertaining thereto established by the Kalamazoo County Health Department. If liquid waste retention and disposal is dependent upon pumpers and haulers, they shall be licensed in accordance with Act 243, Public Acts of 1951, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law, and, prior to issuance of any license, the licensee shall provide the Township Board with a true copy of an executed agreement in force and effect with a licensed pumper or hauler, which agreement will assure proper, effective and frequent removal of liquid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.

Cross reference— Public water and sewers, Pt. 113.

- (g) *Solid waste disposal.* The licensee shall provide for solid waste storage on, and removal from, the premises. Storage shall be in approved, covered, fly tight and rodent proof containers, provided in sufficient quantity to accommodate the number of attendants. Prior to issuance of any license, the licensee shall provide the Township

Board with a true copy of an executed agreement in force and effect with a licensed refuse collector, which agreement will assure proper, effective and frequent removal of solid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.

The licensee shall implement effective control measures to minimize the presence of rodents, flies, roaches and other vermin on the premises. Poisonous materials, such as insecticides, or rodenticides shall not be used in any way so as to contaminate food, equipment, or otherwise constitute a hazard to the public health. Solid waste containing food waste shall be stored so as to be inaccessible to vermin. The premises shall be kept in such condition as to prevent the harborage or feeding of vermin.

Cross reference— Public water and sewer, Pt. 113; sewerage, Pt. 114.

- (h) *Public bathing beaches*. The licensee shall provide or make available or accessible public bathing beaches only in accordance with Act 218, Public Acts of 1967, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provisions of state or local law.
- (i) *Public swimming pools*. The licensee shall provide or make available public swimming pools only in accordance with Act 230, Public Acts of 1966, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provisions of state or local law.
- (j) *Access and traffic control*. The licensee shall provide ingress to and egress from the premises so as to insure the orderly flow of traffic onto and off of the premises. Access to the premises shall be from a highway or road which is a part of the county system of highways or which is a highway maintained by the State of Michigan. Traffic lanes and other space shall be provided, designated and kept open for access by ambulance, fire equipment, helicopter and other emergency vehicles. Prior to the issuance of a license, the director of the Department of State Police and the director of the Department of State Highways must approve the licensee's plan for access and traffic control.
- (k) *Parking*. The licensee shall provide a parking area sufficient to accommodate all motor vehicles but in no case shall he provide less than one automobile space for every four attendants.
- (l) *Camping and trailer parking*. A licensee who permits attendants to remain on the premises between the hours of 2 a.m. and 6 a.m. shall provide for camping and trailer parking and facilities in accordance with Act 171, Public Acts of 1970, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision by state or local law.
- (m) *Illumination*. The licensee shall provide electrical illumination of all occupied areas sufficient to insure the safety and comfort of all attendants. The licensee's lighting plan shall be approved by the Township Board.
- (n) *Insurance*. Before the issuance of a license, the licensee shall obtain public liability insurance with limits of not less than \$300,000 and property damage insurance with a limit of not less than \$25,000 from a company or companies approved by the Commissioner of Insurance of the State of Michigan, which insurance shall insure liability for death or injury to persons or damage to property which may result from the conduct of the assembly or conduct incident thereto and which insurance shall remain in full force and effect in the specified amounts for the duration of the license. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the clerk of the Township in writing at least ten days before the expiration or cancellation of said insurance.
- (o) *Bonding*. Before the issuance of a license the licensee shall obtain from a corporate bonding company authorized to do business in Michigan, a corporate surety bond in the amount of \$50,000 in a form to be approved by the Township Board which shall indemnify the Township, its agents, officers and employees and the Township Board

against any and all loss, injury or damage whatever arising out of or in any way connected with the assembly and which shall indemnify the owners of property adjoining the assembly site for any costs attributable to cleaning up and/or removing debris, trash, or other waste resultant from the assembly.

- (p) *Fire protection.* The licensee shall, at his own expense, take adequate steps as determined by the state fire marshal, to insure fire protection.

Cross reference— Uniform Fire Code, Pt. 130.

- (q) *Sound producing equipment.* Sound producing equipment, including but not limited to, public address systems, radios, phonographs, musical instruments and other recording devices, shall not be operated on the premises of the assembly so as to be unreasonably loud or raucous, or so as to be a nuisance or disturbance to the peace and tranquility of the citizens of the Township.

Cross reference— Anti-noise and public nuisance, 90.002(a), (b).

- (r) *Fencing.* The licensee shall erect a fence completely enclosing the site, of sufficient height and strength as will preclude persons in excess of the maximum permissible attendants from gaining access and which all have sufficient gates properly located so as to provide ready and safe ingress and egress.
- (s) *Communications.* The licensee shall provide public telephone equipment for general use on the basis of at least one unit for each 1,000 attendants.
- (t) *Miscellaneous.* Prior to the issuance of a license, the Township Board may impose any other condition(s) reasonably calculated to protect the health, safety, welfare and property of attendants or of citizens of the Township.

16.011 - Revocation.

Sec. 11. The Township Board may revoke a license whenever the licensee, his employee, or agent fails, neglects or refuses to fully comply with any and all provisions and requirements set forth herein or with any and all provisions, regulations, Ordinances, statutes, or other laws incorporated herein by reference.

16.012 - Violations.

Sec. 12. It shall be unlawful for a licensee, his employee, or agent, to knowingly:

- (a) Advertise, promote or sell tickets to, conduct or operate an assembly without first obtaining a license as herein provided.
- (b) Conduct or operate an assembly in such a manner as to create a public or private nuisance.
- (c) Conduct or operate within the assembly, any obscene display, exhibition, show, play, entertainment or amusement.
- (d) Permit any person on the premises to cause or create a disturbance in, around, or near the assembly by obscene or disorderly conduct.
- (e) Permit any person to unlawfully consume, sell, or possess intoxicating liquor while on the premises.
- (f) Permit any person to unlawfully use, sell, or possess any narcotics, narcotic drugs, drugs or other substances as defined in Act 343, Public Acts of 1952.

Any of the above enumerated violations is a separate offense, is a nuisance per se immediately enjoined in the circuit courts, and is punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$100.00, or by both such fine and imprisonment.

It is further provided that any of the above violations is a sufficient basis for revocation of the license and for the immediate enjoining in the circuit court of the assembly.

16.013 - Severability.

Sec. 13. If any portion of this Ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of this Ordinance which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the court to be inoperable, and to this end this Ordinance is declared to be severable.

16.014 - Effective date.

Sec. 14. This Ordinance shall be effective from and after October 12, 1970.

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

17.000 - CABLE TELEVISION RATE REGULATION Ord. No. 102 Adopted: December 13, 1993

An ordinance to provide for the regulation of rates for cable television basic service and associated equipment; to repeal all ordinances or parts of ordinances in conflict herewith; and to provide for an effective date of this Ordinance.

THE TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN, ORDAINS:

17.001 - Short title.

Sec. I. This Ordinance may be known and referred to as the "Pavilion Township Cable Television Rate Regulation Ordinance."

17.002 - Purpose.

Sec. II. The purpose of this Ordinance is to regulate rates of cable television basic service and associated equipment through adoption of regulations consistent with the provisions of the Federal Communications Act of 1934, as amended, including the Cable TV Consumer Protection and Competition Act of 1992, Public Law 102-385 and the Federal Communication Commission's Rules and Regulations promulgated pursuant thereto; and to provide procedures applicable to rate regulation which offer a reasonable opportunity for comment by interested parties.

17.003 - Definitions.

Sec. III. The following words and terms used in this Ordinance are defined as follows:

- A. *Act*, means the Federal Communications Act of 1934, as amended, specifically including the amendments contained in the Cable Television Consumer Protection and Competition Act of 1992, Public Law 102-385.
- B. *Associated equipment*, means equipment used by a subscriber to receive basic service cable programming regardless of whether such equipment is also used to receive other tiers of regulated programming service and/or unregulated tiers of programming service(s). Associated equipment includes, but is not limited to:
 - 1. Converter boxes;
 - 2. Remote control units;

- 3. Connections for additional television receivers; and
- 4. Other cable home wiring.
- C. *Basic service*, means the level or tier of cable television programming which includes, at a minimum, all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the cable system), a public, educational and/or governmental programming required by the franchise authority to be carried as a basic service, and any additional video programming signals added to the basic service by the regulated cable operator.
- D. *Existing rates*, [means] the rates for basic service and associated equipment charged by a regulated cable operator on the initial date of regulation by the franchising authority.
- E. *F.C.C.*, means the United States Federal Communications Commission.
- F. *F.C.C. rules and/or regulations*, means any and all rules and/or regulations which the F.C.C. promulgates and/or adopts pursuant to the Act.
- G. *Franchising authority*, means the Township Board.
- H. *Rate increase*, means an increase in rates for basic service and/or associated equipment including among others increases in rates that are the result of reductions in programming provided under the basic service.
- I. *Ordinance*, means this Cable Television Basic Service Regulation Ordinance.
- J. *Regulated cable operator*, means any operator of a cable television system that is subject to regulation by a certified franchising authority.
- K. *Township* shall mean the Pavilion Township of Kalamazoo County.

17.004 - Undefined words or terms.

Sec. IV. Any word or term which is not specifically defined in section III [section 17.003] of this Ordinance shall be given its normal, ordinary meaning. Provided that any word or term which is used in this Ordinance and which is not specifically defined in section III [section 17.003] of this Ordinance but is defined in F.C.C. rules or regulations shall have the meaning given to such word or term in the F.C.C. rules and/or regulations.

17.005 - Rate regulation; adoption of F.C.C. rules and/or regulations.

Sec. V.

- A. The Township, by this reference, hereby adopts all rules and regulations regarding basic service rates and associated equipment rates which the F.C.C. promulgates pursuant to the Act, and makes said rules and regulations part of this Ordinance.
- B. The Township has submitted an application to the F.C.C. for certification as a cable franchising authority pursuant to the Act. Upon certification as a cable franchising authority, the Township shall regulate the basic service rates and associated equipment rates in compliance with the Act, the F.C.C. rules and/or regulations and this Ordinance.
- C. Upon receiving its certification, the franchising authority shall send written notice of its certification and notice that it has adopted the required regulations, return receipt requested, to all regulated cable operators within the Township. The date upon which the franchising authority gives this notice is the initial date of regulation.

17.006 - Designation of the cable franchising authority.

Sec. VI.

- A. Effective upon certification of the Township as a cable franchising authority, the Township Board is hereby designated as the cable franchising authority for the Township and shall execute the powers, duties and responsibilities given to the cable franchising authority in this Ordinance, the Act and the F.C.C. rules and/or regulations.

17.007 - Regulated cable operators.

Sec. VII.

- A. A regulated cable operator shall comply with all duties and obligations imposed upon the regulated cable operator by the Act, F.C.C. rules and/or regulations, and this Ordinance.
- B. A regulated cable operator has the burden of proving that its submitted existing rates or a proposed rate increase comply with the Act and FCC rules and regulations.

17.008 - Submission of existing rate schedule.

Sec. VIII.

- A. Within 30 days of receiving the notice identified in section V.C. [section 17.005(C)] of this Ordinance, a regulated cable operator shall submit an original and eight copies of a written schedule of the regulated cable operator's existing rates to the franchising authority. Said schedules shall be addressed in care of the Township clerk.
- B. The schedule(s) identified in section VIII.A. [section 17.008(A)] of this Ordinance shall contain a detailed statement explaining whether the regulated cable operator's existing rates comply with existing F.C.C. rules and/or regulations for basic service rates and associated equipment rates.
- C. Upon receipt of the existing basic service rate and associated equipment rate schedule(s), the Township clerk shall provide the schedule(s) to the franchising authority within seven days.

17.009 - Franchising authority existing rate review.

Sec. IX.

- A. Unless the time for conducting the public hearing and entering a decision is extended by the issuance of a tolling order by the franchising authority pursuant to section XIII [section 17.008] of this Ordinance, the franchising authority shall hold a public hearing on the existing rate schedule(s) which the regulated cable operator submitted to the franchising authority, and enter a decision on said submitted schedule(s) within 30 days of the date the Township clerk received the schedule(s). If the time for conducting the public hearing is extended pursuant to section XIII [section 17.008] of this Ordinance, a public hearing should be held and decision rendered, before the extended time period expires.
- B. The existing rates identified in the submitted schedule(s) of rates shall go into effect 30 days from the date of the Township clerk's receipt of the schedule(s) unless the franchising authority disapproves the rate or extends the time period for conducting the review of existing rates pursuant to section XIII [section 17.008] of this Ordinance.
- C. If the franchising authority fails to act on the submitted existing rates by the end of the respective tolling period then the rates will remain in effect. If the franchising authority subsequently disapproves any portion of said rates, refunds may not be ordered unless a brief written order is issued by the franchising authority before the end of the respective tolling period directing the regulated cable operator to keep an accurate accounting of all its customers and the amounts paid by each as a result of said rates.

17.010 - Regulation of rate increases.

Sec. X.

- A. A regulated cable operator cannot institute a rate increase charged to its subscribers unless the regulated cable operator complies with the Act, F.C.C. rules and/or regulations [and] this Ordinance.
- B. A regulated cable operator which proposes a rate increase must submit at least eight copies of the proposed rate increase(s) request to the franchising authority in care of the Township clerk.

17.011 - Intentionally omitted.

17.012 - Franchising authority rate increase review.

Sec. XII.

- A. Unless the time for conducting the public hearing and entering a decision is extended by the issuance of a tolling order by the franchising authority pursuant to section XIII [section 17.013] of this Ordinance, the franchising authority shall conduct a public hearing and render a decision upon the regulated cable operator's proposed rate increase request within 30 days of the Township clerk's receipt of a proposed rate increase request. If the time for holding the public hearing is extended pursuant to this section, the public hearing should be held and decision rendered, before the extended time period expires.
- B. A proposed rate increase requested by a regulated cable operator will become effective after 30 days have elapsed from the date the Township clerk received the proposed rate increase request unless the franchising authority disproves the proposed rate increase or; extends the time period for conducting the review of the proposed rate increase pursuant to section XIII [section 17.013] of this Ordinance.
- C. If the franchising authority allows rate increases to go into effect at the end [of] the respective tolling period through inaction and then subsequently disapproves any portion of such rates, than [then] refunds may not be ordered unless a brief written order is issued by the franchising authority before the end of the respective tolling period, directing the regulated cable operator to keep an accurate accounting of all its customers and the amounts paid by each as a result of said rates.

17.013 - Tolling order.

Sec. XIII.

- A. If the franchising authority is unable to determine, based upon the material submitted by the regulated cable operator that the existing rates or proposed rate increase(s) are reasonable or if the regulated cable operator has submitted a cost of service showing, then the franchise authority may toll the 30 day deadline for an additional 90 days in cases not involving cost of service showings or for an additional 150 days in cases involving cost of service showings.
- B. In order for the franchising authority to toll the 30-day period pursuant to this section, the franchising authority must issue an order explaining that additional time and/or information is necessary in order for the franchising authority to act upon the existing rates or the proposed rate increase. Said order must be in writing, by resolution adopted within said 30-day period.
- C. The franchising authority shall send a copy of the tolling order to the regulated cable operator by first class mail within seven days after the effective date of the decision.

17.014 - Public hearing.

Sec. XIV.

- A. During the public hearing on the review of a regulated cable operator's existing rates or on review of a proposed rate increase, the franchising authority shall provide the regulated cable operator and all other interested persons with the opportunity to comment on the rates either in person, in writing, or by agent.
- B. The franchising authority may conduct as many public hearings as necessary to carry out the provisions of the Act, FCC rules and regulations and this Ordinance.
- C. If the franchising authority deems it necessary, either prior to or following a public hearing the franchising authority may direct the preparation of a written report for the franchising authority. This report may contain a recommendation to the Franchising Authority for its decision on the review of the existing rate schedule(s) or proposed rate request submitted by a regulated cable operator. This recommendation should also summarize and be based upon the schedule or request submitted by the regulated cable operator; comments or objections to the schedule or request which the franchising authority received from the regulated cable operator; any additional information received from the regulated cable operator; information which the franchising authority received from a consultant, its staff or its attorney; and other information which it deems appropriate.
- D. The franchising authority shall send, by first class mail, a copy of any report to the regulated cable operator prior to the franchising authority's consideration of the report at a public hearing.

17.015 - Public hearing notice.

Sec. XV.

- A. The franchising authority shall send a written notice of the date, time and location of the public hearing to the regulated cable operator which submitted the existing rates or proposed rate increase for review no less than seven days before the date of the public hearing. Said notice is to be sent to the regulated cable operator by first class mail.
- B. The franchising authority shall cause to be published, in a qualified newspaper of general circulation within the township, a notice of the public hearing on the existing rate schedule(s) or proposed rate increase request no less than seven days before the public hearing. Said notice shall:
 - 1. State that a regulated cable operator has submitted the existing rate schedule(s) or proposed rate increase request to the franchising authority for review pursuant to this Ordinance;
 - 2. State the location and times at which the public may examine the submitted schedule(s) of existing rates or proposed rate increase request.
 - 3. State the date, time and location at which the franchising authority will conduct the public hearing.
 - 4. State that all interested persons shall have an opportunity to comment on the rates at the public hearing, and/or to submit written comments on or before the date of the public hearing to the franchising authority.

17.016 - Franchising authority decision on review of existing rates or proposed rate increase.

Sec. XVI. The franchising authority shall issue a written order supported by its reasons, by resolution which:

- A. Approves the regulated cable operator's existing rate or proposed rate increase; or
- B. Disapproves the regulated cable operator's existing rate or proposed rate increase; or
- C. Approves, in part, and disapproves, in part, the regulated cable operator's existing rate or proposed rate

increase; and/or

- D. Orders a rate reduction; and/or
- E. Prescribes a reasonable rate; and/or
- F. Determines that a refund hearing should be held pursuant to section XVII [section 17.017] of this Ordinance; and/or
- G. Orders any further appropriate relief permitted by this Ordinance, the Act or the F.C.C. rules and/or regulations.

17.017 - Refund hearing.

Sec. XVII.

- A. If the franchising authority determines that the subscribers to a regulated cable operator may be entitled to a refund pursuant to F.C.C. rules and regulations (specifically 47 CFR 76.942), the franchising authority shall include a notice in its decision issued pursuant to section XVI [section 17.016], that the franchising authority will hold a public hearing to consider ordering the regulated cable operator to make a refund to subscribers.
- B. The franchising authority shall then conduct a public hearing to determine whether to order a refund to subscribers and the amount of the refund.
- C. The franchising authority shall send, by first class mail, to the regulated cable operator, written notice of the date, time and location of the public hearing. Said notice must be sent no less than seven days before the public hearing.

17.018 - Refund hearing decision.

Sec. XVIII.

- A. At any refund hearing the regulated cable operator may appear in person, by agent or in writing to comment upon whether the franchising authority should order a refund.
- B. Members of the public may also comment at the refund hearing in person, by agent or in writing.
- C. At the conclusion of the refund hearing, the franchising authority shall issue a written order, by resolution:
 1. Denying a refund; or
 2. Ordering the regulated cable operator to implement a refund.

17.019 - Notice of franchising authority decisions.

Sec. XIX.

- A. All decisions of the franchising authority issued pursuant to section XVI [section 17.016] and/or section XVIII [section 17.018] of this Ordinance shall be:
 1. In writing, by resolution, supported by its reasons; and
 2. Effective as of the date the franchising authority makes the decision.
- B. Notice of all decisions of the franchising authority issued pursuant to section XVI [section 17.016] and/or section XVIII [section 17.018] of this Ordinance shall be published in a qualified newspaper of general circulation in the Township no less than 15 days after the effective date of the decision. Said notice shall include:
 1. A summary of the franchising authority's written decision;
 2. A statement that copies of the franchising authority's decision are available for public inspection;
 3. A statement as to the location at which, and times during which, the public may inspect copies of the

franchising authority's decision.

- C. The franchising authority shall send, by first class mail, a copy of the franchising authority's decision to the regulated cable operator not more than seven days after the effective date of the franchising authority's decision.

17.020 - Proprietary information and production documents.

Sec. XX. The franchising authority may require the regulated cable operator to produce documents needed to make rate decisions. Requests that proprietary information be held confidential shall be supported by the regulated cable operator and be handled in a manner analogous to the procedures and criteria set forth in 47 CFR 0.459.

17.021 - Severability.

Sec. XXI. The provisions of this Ordinance are hereby declared to be separable 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 the Ordinance other than said part or portion thereof.

17.022 - Repeal of conflicting ordinances.

Sec. XXII. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

17.023 - Effective date.

Sec. XXIII. This Ordinance shall become effective upon publication of the Ordinance in a qualified newspaper of general circulation within the Township.

18.000 - RESIDENTIAL WASTE REDUCTION Ord. No. 104 Adopted: January 9, 1995

An Ordinance to provide for the regulation and licensing of residential garbage collection services; to require the provision of recycling, trash and yard trimming collection services in connection therewith; to provide sanctions for the violation thereof; and to repeal all ordinances or parts of ordinances in conflict therewith.

ARTICLE I

18.100 - TITLE, PURPOSE AND LEGAL JUSTIFICATION

18.101 - Title.

Sec. 1.01. This Ordinance shall be known as the Residential Waste Reduction Ordinance of 1995 and herein referred to as the "Ordinance."

18.102 - Purpose.

Sec. 1.02.

- a) The purpose of this Ordinance is to protect and promote the public health, safety, and welfare of the inhabitants of the local unit by regulating the collection of residential garbage and recyclables in a manner that will promote waste reduction.

- b) This Ordinance does not prevent persons or organizations from marketing or disposing of collected materials where persons or organizations choose, as long as the collected materials are marketed or disposed in a manner which is with local, state, and federal requirements.
- c) Recycling service is required for all garbage pickup customers. Customers will be charged for the service even if not utilized.

(Ord. No. 142, § 1, 10-8-07)

18.103 - Repeal of conflicting ordinances.

Sec. 1.03. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

18.104 - Severability.

Sec. 1.04. Sections of the Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

18.105 - Current contracts.

Sec. 1.05. This Ordinance is not intended to alter or delete terms or conditions of any existing contract or franchise or the local unit's rights and abilities to develop other means of providing garbage, recycling, trash or yard trimmings service through, for example, but not limited to, collection services provided by municipal crews or a private contractor(s).

ARTICLE II

18.200 - DEFINITIONS

18.201 - Definitions.

Sec. 2.01. For the purpose of this Ordinance, the words and phrases listed below shall have the following meanings:

- 1) *Curbside collection* means the gathering by a hauler of designated materials placed by a customer within six feet of the curb or road's edge.
- 2) *Front door service* means a service which collects designated materials on the exterior side of a residence which faces the street access for the residence.
- 3) *Garbage* means all waste consisting of or in general contact with putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, and other small miscellaneous residential waste, such as consumer packaging used for food products.
- 4) *Hauler* means any person involved in the business of collecting residential garbage generated within this jurisdiction.
- 5) *Licensing agent* means the local unit or a person or public agency designated by the local unit to perform administrative duties specified in the Ordinance.
- 6) *Local unit* means the City, Township, or Village in which this Ordinance is adopted.
- 7) *On site collection service* means service provided to residential buildings of five dwelling units or more. Containers for such service generally shall be for common collection.

- 8) *Person* means any individual, firm, public or private corporation, partnership, trust, public or private agency or any or any group of such persons.
- 9) *Prohibited items* means items which cannot be lawfully deposited in a Type II landfill as defined by state law.
- 10) *Recyclable material or recyclables* means waste materials which can be converted to a useful product and for which there is a market. Examples of recyclable materials include corrugated materials, cardboard, clear glass jars and bottles, and certain plastics and metals.
- 11) *Trash* means all large rubbish and debris of a domestic or household character, except garbage, recyclables, and yard trimmings, or any other prohibited item. Recyclable containers containing trash shall be deemed trash for purposes of this Ordinance.
- 12) *Unit-based fees* means a fee system used by a hauler to charge for services based on the amount (weight or volume) of the material being collected from the customer. Fees progressively based on the collection container size shall be deemed "unit-based fees" for the purposes of this Ordinance.
- 13) *Yard trimmings* means leaves, grass clippings, vegetable or other garden debris, shrubbery, or brush or tree trimmings less than four feet in length and two inches in diameter.

ARTICLE III

18.300 - HAULER REQUIREMENTS

18.301 - General hauler requirements.

Sec. 3.01.

- a) A hauler must provide the following collection service to its residential customers in buildings containing four dwelling units or less:
 - 1) Garbage including recycling;
 - 2) Trash pick up.
- b) Customers shall be permitted to purchase the following service on an as needed basis:
Trash pick up.
- c) A hauler shall not limit the amount of residential recyclable materials from each customer as long as the materials are generated by that customer.
- d) A hauler shall offer at least three garbage collection container size options.
- e) Haulers shall abide by local ordinances in effect which regulate days when materials are collected.

(Ord. No. 142, § 2, 10-8-07)

18.302 - Frequency of service.

Sec. 3.02.

- a) Residential garbage and recycling service. A hauler shall offer its regular curbside residential garbage collection a minimum of once-per-week and recycling collection service no less than once-per-month.
- b) A hauler shall offer its regular curbside residential garbage customers residential trash and yard trimming collection services at a frequency of not less than four times per year. A hauler shall also offer irregular or as-

needed collection service.

(Ord. No. 142, § 2, 10-8-07)

18.303 - Fees.

Sec. 3.03.

- a) A hauler shall clearly and separately indicate on the customer's billing statements the fees for each of the following collection services purchased every time the customer is billed. Haulers shall also indicate that by actively recycling, customers will be able to reduce their waste bills through the use of smaller waste containers:
 - 1) Garbage, including recycling;
 - 2) Trash pick up.
- b) Fees for residential collection services shall be "unit-based," with the exception of recycling which shall not be unit-based.
- c) Under certain circumstances, i.e., persons with disabilities, back door services may be provided without an additional charge.

(Ord. No. 142, § 2, 10-8-07)

18.304 - Minimum liability insurance requirement.

Sec. 3.04.

- a) All haulers shall provide proof of minimum liability insurance when working in the local unit as follows:
 - 1) *Commercial general liability* (including contractual liability, independent contractors' coverage, and broad form general liability extensions)

| | |
|-------------------------|-------------------------------|
| Personal/bodily injury: | \$1,000,000.00 each person |
| | \$1,000,000.00 each accident |
| Property damage: | \$1,000,000.00 each accident |
| | \$1,000,000.00 each aggregate |

- 2) *Motor vehicle liability* (including hired cars and auto non-ownership)

| | |
|------------------|--------------------------------|
| Bodily injury: | \$1,000,000.00 each person |
| | \$1,000,000.00 each occurrence |
| Property damage: | \$1,000,000.00 each accident |
| | \$1,000,000.00 each aggregate |

- b) The insurance company(s) providing the above insurance to the hauler must be licensed to do business in the State of Michigan, recognized by the Michigan Insurance Bureau, and have a rating in the latest Best rating of B+ or better.
- c) The insurance policy shall include an endorsement stating that it is understood and agreed by the hauler and its insurance company that 30 days' advance written notice of cancellation, non-renewal, reduction, and/or material change of the insurance policy shall be sent to the licensing agent and local unit.

18.305 - Educational requirements.

Sec. 3.05.

- a) *Annual educational notice.* On an annual basis, all haulers shall distribute to their residential customers, the local unit and the licensing agent printed materials which communicates the availability of and includes the details and procedures for the collection services regulated in the Ordinance. Haulers may distribute the printed materials with customer billings or appropriate leave-behind tags for its customers. A hauler shall notify its residential customers of any material changes in service that effect the customer on or before the next billing cycle.
- b) *Educating non-compliant customers.* If a customer of the hauler does not properly prepare materials for collection, a hauler is not obligated to pick up the material if, by collecting the materials, a hauler placed itself in a position of non-compliance with this Ordinance or other applicable law. In such cases, the hauler shall notify the customer of the potential violation and provide instructions to the customer on how to comply. The notification shall be: a leave-behind tag, a letter, telephone and/or direct personal communication.

(Ord. No. 142, § 2, 10-8-07)

18.306 - Reporting requirement.

Sec. 3.06. In order to permit public evaluation of the waste reduction measures promoted in this Ordinance, all haulers shall file quarterly reports with the licensing agent by the 15th day of January, April, July, and October of each year. The report shall contain a good faith estimate of the amount of residential recyclables collected by the hauler within: the City of Kalamazoo, the City of Portage, and that portion of Kalamazoo County outside the Cities of Kalamazoo and Portage.

ARTICLE IV

18.400 - SANCTIONS

18.401 - Sanctions.

Sec. 4.01. A hauler who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute and shall be subject to a civil fine of not more than \$500.00 along with costs which may include all expenses, direct and indirect, to which the local unit has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered. Each day that a violation occurs shall constitute a separate offense. The foregoing sanctions shall be in addition to the rights of the local unit to proceed under section 5.06 [section 18.506] or at law or equity with other appropriate and proper remedies.

ARTICLE V

18.500 - LICENSING OF HAULERS

18.501 - Hauler license.

Sec. 5.01. No person shall engage in the business of collecting residential garbage/recycling within the Township, as provided in section 1.02 (18.102) without first obtaining a hauler license.

(Ord. No. 142, § 3, 10-8-07)

18.502 - License application.

Sec. 5.02.

- a) The application will require: the name, local address, and telephone number of the hauler; the name, address, and telephone number of the hauler's main office, if the local office is a subsidiary or branch location; and proof of insurance. The application shall be signed by a duly authorized officer or employee of the hauler.
- b) A licensee shall notify the licensing agent, in writing, prior to any substantial change in the information provided in the application.

18.503 - License application fee and renewal fee.

Sec. 5.03.

- a) Application or renewal licensing fees shall be paid by the applicant upon submittal of the application to the licensing agent. The application and renewal fees shall be set by the licensing agent. If the local unit designates Kalamazoo County as the licensing agent under this Ordinance and one or more other municipalities do the same, a single application fee paid by the hauler to Kalamazoo County for a hauler license shall satisfy the application fee requirement for those municipalities. The fees shall be reasonable and shall not exceed the cost of administering the Ordinance.
- b) A license shall expire on December 31st of each year.

18.504 - Approval or denial of license.

Sec. 5.04.

- a) Upon receipt of a completed application and the application fee, the licensing agent has up to 45 days to determine the accuracy of the information included on the application. If the information on the application is found to be accurate, the licensing agent shall issue a written notice of approval no later than 45 days after receipt of the application. If any inaccuracy(ies) become apparent, the licensing agent shall inform the applicant of the inaccuracy(ies) by certified mail and request a correction.
- b) A hauler shall provide corrected information for the application, by certified mail, to the licensing agent within seven days of receipt of the original request or be subject to denial of the license by 12:00 midnight of the seventh day, if such information is not forthcoming.
- c) Notice of denial shall be sent to the applicant by certified mail. The notice shall include the notification of the right of the applicant to request reconsideration of the denial and to have a hearing thereon before the licensing

agent. Any such request for reconsideration shall be filed in writing with the licensing agent within ten days from the date of mailing of the notice of denial. The hearing shall be noticed and conducted by the licensing agent in substantial accordance with the procedures set forth in section 5.06 [section 18.506].

18.505 - Suspension and revocation of a hauler license by the local unit.

Sec. 5.05.

- a) The local unit may, acting in accordance with section 5.06 (section 18.506), suspend or revoke a hauler's license to operate within the local unit's jurisdiction.
- b) A license may be suspended or revoked for the following reasons:
 - 1) The failure of the licensee to substantially comply with this Ordinance or any other applicable federal, state, county and local laws and regulations;
 - 2) Misrepresentations of any material fact contained in the license application;
 - 3) The failure to provide accurate information to customers on the inseparability of the fee for garbage and recycling; and/or
 - 4) The failure of licensee to make payment of any municipal civil infraction fine(s) imposed for violation of this Ordinance.
- c) If a hauler's license is suspended, it will remain suspended for such period of time as is set by the local unit. If a hauler's license is revoked by the local unit, the licensing agent shall not issue a new license until approval has been granted by the local unit.

(Ord. No. 142, § 3, 10-8-07)

18.506 - Procedure to suspend or revoke the license.

Sec. 5.06.

- a) Written notice of a public hearing to consider suspension or revocation of a license shall be mailed by certified mail to the licensee at its last known address, not less than seven days prior to the public hearing at which the suspension or revocation of the licensee will be considered. The notice shall indicate the date, time, and location of the hearing. It shall also include a statement of the tentative reasons for the proposed suspension or revocation.
- b) The public hearing shall provide the opportunity for the hauler to present witnesses and question any adverse witnesses as may appear at the hearing.
- c) Any suspension or revocation imposed by the local unit shall be based upon a full consideration of the evidence presented at the public hearing.
- d) The local unit shall have 30 days from the date of the public hearing to make a determination. Written notice of the determination, along with a statement of the reasons for the determination shall be mailed by certified mail to the last known address of the licensee no later than eight days after the local unit's decision.

18.507 - Transferability of licenses.

Sec. 5.07. A license shall not be transferable or assignable to another.

ARTICLE VI

18.600 - EFFECTIVE DATE

18.601 - Effective date.

Sec. 6.01. This Ordinance shall become effective on May 1, 1995.

Part 19

19.000 - PROHIBITION OF MARIHUANA ESTABLISHMENTS ORDINANCE ORDINANCE NO. 164 ADOPTED: DECEMBER 10, 2018
EFFECTIVE: 30 DAYS AFTER PUBLICATION

The Township of Pavilion ORDAINS:

19.001 - Title.

Sec. I. This ordinance shall be known as the Pavilion Township Prohibition of Marihuana Establishments Ordinance.

19.002 - Legal Authority.

Sec. II. This Ordinance is enacted pursuant to the Michigan Regulation and Taxation of Marihuana Act (initiative legislation approved by the voters as Proposal 1 at the November 6, 2018 general election) to completely prohibit any 'marihuana establishment' as that term is defined in the Act and herein within the boundaries of Pavilion Township. This Ordinance is also enacted pursuant to the authority granted to the Township Board by MCL 41.181 to adopt ordinances regulating the public health, safety, and general welfare of persons and property.

19.003 - Complete Prohibition of Marihuana Establishments Within Pavilion Township.

Sec. III. Marihuana establishments shall be and hereby are completely prohibited within the boundaries of Pavilion Township.

19.004 - Definitions.

Sec. IV. For the purposes of this Ordinance, the term "marihuana establishment" is defined exactly as defined in Section 3(h) of the Michigan Regulation and Taxation of Marihuana Act, to mean "a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana related business licensed by the department".

19.005 - Violations and Penalties.

Sec. V.

1. Any person who disobeys neglects or refuses to comply with any provision of this ordinance or who causes, allows, or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
2. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, at the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall

pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.

3. Each day during which any violation continues shall be deemed a separate offense.
4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
5. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person (s) as designated by the Township Board from time to time.

19.006 - Severability.

Sec. VI. The provisions of this ordinance are hereby declared to be severable, and if any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by any court of competent jurisdiction, such declaration shall not affect any portion of this Ordinance other than the part declared to be invalid.

19.007 - Effective Date and Non-Repeal.

Sec. VII. This Ordinance shall take effect 30 days following the date of the publication of the Ordinance as provided by MCL 41.184.

30.000 - CONSUMERS ENERGY COMPANY GAS FRANCHISE ORDINANCE Ord. No. 146/2 Adopted: July 24, 2009

An Ordinance, granting to Consumers Energy Company, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges, waterways, and other public places, and to do a local gas business in the Township of Pavilion, Kalamazoo County, Michigan, for a period of 30 years.

The Township of Pavilion Ordains:

Footnotes:

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Editor's note— Ord. No. 146/2, adopted July 24, 2009, amended Part 30 in its entirety to read as herein set out. Former Part 30, §§ 30.000—30.009, pertained to similar subject matter and derived from Ord. No. 62, adopted Sept. 10, 1979.

30.001 - Grant term.

Sec. 1. The Township of Pavilion, Kalamazoo County, hereby grants to the Consumers Energy Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee", the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges, waterways, and other public places, and to do a local gas business in the Township Of Pavilion, Kalamazoo County, for a period of 30 years.

(Ord. No. 146/2, 7-24-09)

30.002 - Consideration.

Sec. 2. In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

(Ord. No. 146/2, 7-24-09)

30.003 - Conditions.

Sec. 3. No highway, street, alley, bridge, waterway or other public place used by said Grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to the same order and condition as when said work was commenced. All of Grantee's pipes and mains shall be so placed in the highways and other public places as not to unnecessarily interfere with the use thereof for highway purposes.

(Ord. No. 146/2, 7-24-09)

30.004 - Hold harmless.

Sec. 4. 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 and equipment hereby authorized. In case any action is commenced against the Township on account of the permission herein given, 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.

(Ord. No. 146/2, 7-24-09)

30.005 - Extensions.

Sec. 5. Said Grantee shall construct and extend its gas distribution system within said Township and shall furnish gas to applicants residing therein in accordance with applicable laws, rules and regulations.

(Ord. No. 146/2, 7-24-09)

30.006 - Franchise not exclusive.

Sec. 6. The rights, power and authority herein granted, are not exclusive. Either manufactured or natural gas may be furnished hereunder.

(Ord. No. 146/2, 7-24-09)

30.007 - Rates.

Sec. 7. Said Grantee shall be entitled to charge the inhabitants of said Township for gas furnished therein, the rates as approved by the Michigan Public Service Commission, to which Commission or its successors authority and jurisdiction to fix and regulate gas rates and rules regulating such service in said Township, are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said Township, acting by its Township Board, or by said Grantee.

(Ord. No. 146/2, 7-24-09)

30.008 - Revocation.

Sec. 8. The franchise granted by this Ordinance is subject to revocation upon 60 days written notice by the party desiring such revocation.

30.009 - Michigan Public Service Commission, jurisdiction.

Sec. 9. Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to gas service in said Township.

(Ord. No. 146/2, 7-24-09)

30.010 - Repealer.

Sec. 10. This Ordinance, when accepted and published as herein provided, shall repeal and supersede the provisions of a gas ordinance adopted by the Township Board on September 10, 1979 entitled:

An Ordinance, granting to Consumers Power Company, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges, and other public places, and to do a local gas business in the Township of Pavilion, Kalamazoo County, Michigan, for a period of 30 years.

and amendments, if any, to such ordinance whereby a gas franchise was granted to Consumers Energy Company.

(Ord. No. 146/2, 7-24-09)

30.011 - Effective date.

Sec. 11. This Ordinance shall take effect upon the day after the date of publication thereof; provided, however, it shall cease and be of no effect after 30 days from its adoption unless within said period the Grantee shall accept the same in writing filed with the Township Clerk. Upon acceptance and publication hereof, this Ordinance shall constitute a contract between said Township and said Grantee.

(Ord. No. 146/2, 7-24-09)

31.000 - CONSUMERS ENERGY COMPANY ELECTRIC FRANCHISE ORDINANCE Ord. No. 152 Adopted: May 9, 2016

AN ORDINANCE, granting to CONSUMERS ENERGY COMPANY, its successors and assigns, the right, power and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN, for a period of thirty years.

THE TOWNSHIP OF PAVILION ORDAINS:

31.001 - Grant term.

Sec. 1. The TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN, hereby grants the right, power and authority to the Consumers Energy Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee," to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances for the purpose of transmitting, transforming and distributing electricity on, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN, for a period of thirty years.

(Ord. No. 152, 5-13-13)

31.002 - Consideration.

Sec. 2. In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

(Ord. No. 152, 5-13-13)

31.003 - Conditions.

Sec. 3. No highway, street, alley, bridge, waterway or other public place used by said Grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to the same order and condition as when said work was commenced. All of Grantee's structures and equipment shall be so placed on either side of the highways as not to unnecessarily interfere with the use thereof for highway 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. The Grantee shall have the right to trim trees if necessary in the conducting of such business, subject, however, to the supervision of the highway authorities.

(Ord. No. 152, 5-13-13)

31.004 - Hold harmless.

Sec. 4. 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 and equipment hereby authorized. In case any action is commenced against the Township on account of the permission herein given, 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.

(Ord. No. 152, 5-13-13)

31.005 - Extensions.

Sec. 5. Said Grantee shall construct and extend its electric distribution system within said Township, and shall furnish electric service to applicants residing therein in accordance with applicable laws, rules and regulations.

(Ord. No. 152, 5-13-13)

31.006 - Franchise not exclusive.

Sec. 6. The rights, power and authority herein granted, are not exclusive.

(Ord. No. 152, 5-13-13)

31.007 - Rates.

Sec. 7. Said Grantee shall be entitled to charge the inhabitants of said Township for electric furnished therein, the rates as approved by the Michigan Public Service Commission, to which Commission or its successors authority and jurisdiction to fix and regulate electric rates and rules regulating such service in said Township, are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said Township, acting by its Township Board, or by said Grantee.

(Ord. No. 152, 5-13-13)

31.008 - Revocation.

Sec. 8. The franchise granted by this ordinance is subject to revocation upon sixty days written notice by the party desiring such revocation.

(Ord. No. 152, 5-13-13)

31.009 - Michigan Public Service Commission. Jurisdiction.

Sec. 9. Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to electric service in said Township.

(Ord. No. 152, 5-13-13)

31.010 - Repealer.

Sec. 10. This ordinance, when accepted and published as herein provided, shall repeal and supersede the provisions of an electric ordinance adopted by the Township on June 13, 1983 entitled:

AN ORDINANCE, granting to CONSUMERS POWER COMPANY, its successors and assigns, the right, power and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, under, along and across the highways, streets, alleys, bridges and other public places, and to do a local electric business in the TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN, for a period of thirty years.

and amendments, if any, to such ordinance whereby an electric franchise was granted to Consumers Energy Company.

(Ord. No. 152, 5-13-13)

31.011 - Effective date.

Sec. 11. This ordinance shall take effect upon the day after the date of publication thereof; provided, however, it shall cease and be of no effect after thirty days from its adoption unless within said period the Grantee shall accept the same in writing filed with the Township Clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said Township and said Grantee.

(Ord. No. 152, 5-13-13)

Part 45

45.000 - MOTOR VEHICLE STORAGE AND REPAIR ORDINANCE NO. 162 ADOPTED: MAY 14, 2018 EFFECTIVE: JUNE 17, 2018

An Ordinance to secure the public peace, health, safety, welfare and protection of the environment of and for the residents and property owners of the Township of Pavilion, Kalamazoo County, Michigan, a municipal corporation, by the regulation of the outdoor parking, storage and repair of motor vehicles, or new or used motor vehicle parts or junk therefrom, within said

Township; to provide civil sanctions and remedies for the violation of this Ordinance; and to repeal any other ordinance or parts of ordinances in conflict herewith, pursuant to MCL 41.181.

TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN ORDAINS:

Footnotes:

--- (1) ---

Cross reference— *Zoning Ordinance, Pt. 200.*

45.001 - Title.

Sec. I. This Ordinance shall be known and may be cited as the Pavilion Township Motor Vehicle Storage and Repair Ordinance.

(Ord. No. 162, § I, 5-14-18)

45.002 - Purpose.

Sec. II. The purpose of this Ordinance is to limit and restrict the outdoor storage, parking, repair or unreasonable accumulation of junk, unused, partially dismantled or non-operating motor vehicles, or new or used motor vehicle parts, upon public and private premises within the Township; to provide restrictions concerning the repairing of said vehicles; to avoid injury and hazards to children and others attracted to such vehicles; to prevent degradation of the environment caused by such vehicles; and to minimize the devaluation of property values and the psychological ill effects of the presence of such vehicles and parts upon adjoining residents and property owners.

(Ord. No. 162, § II, 5-14-18)

45.003 - Definitions.

Sec. III. For the purpose of enforcing the provisions of this Ordinance, certain terms and words used herein shall have the following meaning:

- a. A motor vehicle shall be deemed "*inoperable*" where any of the following conditions exist:
 1. Where it is being dismantled for the sale, salvage, repair or reclamation of parts thereof.
 2. Where it does not have all of its major component parts properly attached.
 3. Where any other or additional conditions exist which cause the vehicle to be incapable of being driven under its own power, lawfully, upon the public streets.
- b. *Major Component Parts* shall mean the engine; transmission; right or left front fender; hood; a door allowing entrance to or egress from the vehicle's passenger compartment of the vehicle; front or rear bumper; right or left rear quarter panel; deck lid, tailgate, or hatchback; the trunk floor pan; cargo box of a pickup; frame or if the vehicle has a unitized body; supporting structure or structures that serve as the frame; cab of a truck; body of a passenger vehicle; and all such other parts or equipment as are necessary for the vehicle to be lawfully driven upon the public streets pursuant to the Michigan Vehicle Code, being 1949 Public Act 300, as amended MCL 257.27(a).
- c. *Person* shall mean an individual, firm, corporation, or other entity of any kind.
- d. *Agricultural vehicle* means a motor vehicle or conveyance designed and intended for agricultural use.

e. *Improved surface* means a paved or gravel surface.

(Ord. No. 162, § III, 5-14-18)

45.004 - Regulations.

Sec. IV. No person shall park or store or permit to be parked or stored outside of a fully enclosed building upon any public or private premises within the Township of Pavilion owned, leased, rented or occupied or possessed by such person any motor vehicle, including a motor vehicle for sale, or new or used motor vehicle parts, or agricultural vehicle, unless one or more of the following conditions exist:

1. Such vehicle has displayed upon it a current and valid license plate or temporary registration certificate issued for that vehicle, is licensed for operation upon the public streets, is not inoperable, has all of its main component parts attached, is owned or leased by an occupant of the premises and is parked on an improved surface when located in the front or side yard.
2. Such vehicle or parts are located in a duly licensed and properly zoned junkyard, salvage yard, or new or used car dealer's lot or storage yard, where such uses or operations are legally authorized under the Township Zoning Ordinance, and are conducted in conformance therewith.
3. Such vehicle is awaiting repairs or delivery to owners at an authorized service station, garage, paint shop, or body shop legally authorized under the Pavilion Township Zoning Ordinance and registered with the State of Michigan pursuant to 1974 PA 300, as amended, and is locked, has displayed upon it a current and valid license plate or temporary registration certificate issued for that vehicle, is licensed for operation upon the public streets, and is not a public nuisance.
4. Such vehicle, although temporarily inoperable because of minor mechanical failure, has substantially all of its main component parts attached, and, where subject to a license, has displayed upon it a current and valid license plate or temporary registration certificate issued for that vehicle, is licensed for operation upon the public streets, is parked on an improved surface when located in the front or side yard, is owned or leased by an occupant of the premises and is not in any manner a dismantled vehicle; provided that the premises shall not contain any such vehicle for longer than 14 days in any one calendar year, calculated on a cumulative basis for the same or different vehicles and notwithstanding that no one such vehicle remains upon the premises for more than said 14 day period.
5. Such vehicle is a modified vehicle in fully operating condition, such as a stock modified, redesigned or reconstructed vehicle for a purpose other than that for which it was manufactured; provided that no more than one such vehicle may be allowed upon any premises pursuant to this subsection and any such vehicle shall comply with all of the following restrictions:
 - i. No such vehicle shall be parked or stored in the front yard area of any premises;
 - ii. Any such vehicle parked or stored in the side yard or rear yard area shall conform to the required yard space requirements for accessory buildings in the zoning district wherein located and shall be parked on an improved surface when located in the side yard;
 - iii. Any such vehicle shall at all times be completely screened from the view of persons standing on adjoining roadways and the ground level of adjoining properties by solid ornamental fencing, terrain, trees or other plantings.
 - iv. If a trailer used for transporting the modified vehicle is also stored outdoors on the premises, the modified vehicle must be stored upon the trailer.

- 6. Such vehicle: (a) is in operating condition, (b) has all of its main component parts attached, (c) is for sale by the owner or occupant of the premises, and (d) is posted with a "For Sale" sign. This provision shall be limited to allowing the outdoor storage of one such vehicle per lot or parcel at any one time and shall only permit the outdoor storage of such vehicle longer than 30 days in any one calendar year, calculated on a cumulative basis for the same or different vehicles and notwithstanding that no such vehicle remains upon the premises for more than said 30 day period.
- 7. Such vehicle is an agricultural vehicle as defined in this Ordinance and is used or usable for agricultural purposes on the premises where located.

(Ord. No. 162, § IV, 5-14-18)

45.005 - Proof of operability.

Sec. V. Where a vehicle is visible from a public or private street or from an adjacent private property and the vehicle has not moved from its location in more than thirty (30) days and/or the license of such vehicle is screened from view by an adjacent structure or vegetation, or by a cover, tarp, or similar object, then the vehicle shall be deemed to be an inoperable vehicle subject to the provisions of this Section. Such a determination may be voided if the vehicle owner, property owner, or resident/occupant demonstrates to the enforcement officer or Township Supervisor that the vehicle is operable on a public street and furnishes proof that the vehicle has a current license and registration as required for lawful operation of the vehicle. Such proof shall be provided within fifteen (15) days from the date the notice was sent.

(Ord. No. 162, § V, 5-14-18)

45.006 - Nuisance.

Sec. VI. Any motor vehicle parking, storage, placement or repair activities in violation of the provisions of this Ordinance are hereby declared to be a public nuisance which may be enjoined or which may subject the violator to the fines and penalties herein provided for.

(Ord. No. 162, § VI, 5-14-18)

45.007 - Severability.

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

(Ord. No. 162, § VII, 5-14-18)

45.008 - Sanctions and enforcement.

Sec. VIII.

- a. Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with the following schedule:

| | | Minimum Fine | Maximum Fine |
|---|-----------------------------------|--------------|--------------|
| — | 1st offense within 3-year period* | \$ 75.00 | \$500.00 |

| | | | |
|---|---|----------|----------|
| — | 2nd offense within 3-year period* | \$150.00 | \$500.00 |
| — | 3rd offense within 3-year period* | \$325.00 | \$500.00 |
| — | 4th or more offense within 3-year period* | \$500.00 | \$500.00 |

*Determined on the basis of the date of commission of the offense(s)

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Pavilion Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$100.00 nor more than \$500.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance.

- b. This Ordinance shall be enforced by the Supervisor of the Township of Pavilion, by the Ordinance Enforcement Officer(s) of the Township of Pavilion, or by such other person or persons as the Township Board may designate from time to time.

(Ord. No. 162, § VIII, 5-14-18)

45.009 - Repeal.

Sec. IX. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

(Ord. No. 162, § IX, 5-14-18)

45.010 - Effective date.

Sec. X. This Ordinance shall become effective 30 days after publication.

(Ord. No. 162, § X, 5-14-18)

60.000 - FIREARMS REGULATION Ord. No. 124 Adopted: October 8, 2001

An Ordinance to regulate the possession of firearms in Pavilion Township's public buildings, contiguous property and other property; to provide sanctions for the violation of any provisions of the ordinance; and to provide for the effective date of said ordinance and the repeal of any provisions of other ordinances in conflict therewith.

PAVILION TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN ORDAINS:

60.001 - Title.

I. This Ordinance shall be known as the Firearms Regulation Ordinance of Pavilion Township.

60.002 - Purpose.

II. The purpose of this ordinance is to protect the health, safety and general welfare of persons within public buildings and on property owned or operated by Pavilion Township who are present as employees, voters, tax payers, residents, citizens, tradesmen, senior citizens, youths, public officials or otherwise from intimidation, physical injury or fear thereof caused by the display or potential display of firearms by other persons.

60.003 - Regulations.

III. Hereafter it shall be unlawful for any person, not exempt under this ordinance, from possessing, either concealed or exposed, any firearm, as defined herein, within any public building, contiguous property and other property, owned and operated by Pavilion Township as hereinafter specified.

60.004 - Public buildings/township property.

IV. The public buildings and contiguous property of Pavilion Township to which this ordinance applies, are the Pavilion Township Hall and office buildings and contiguous property at 7510 East Q Avenue, Scotts, Michigan, and the two Township fire stations and contiguous property located at 8356 South 36th Street, Scotts, Michigan, and 8749 South 25th Street, Scotts, Michigan. Other property of the Township shall be all of the cemeteries and the collection station.

60.005 - Persons exempt.

V. The following persons are exempt from the firearm regulations of this ordinance:

- A. Licensed police officers and sheriff deputies authorized to carry firearms under pertinent state statutes.
- B. Members of the military forces of the United States, National Guard, or the State of Michigan while engaged in such military service.
- C. Agents of the Federal Bureau of Investigation, Secret Service, ATF, Central Intelligence Agency and other Federal or State officers or agents authorized to carry firearms as a result of their governmental position and during their presence in the afore-described public buildings and public property.
- D. Those persons participating in military ceremonies.

60.006 - Definitions.

VI. "Firearm" means a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air.

60.007 - Violations.

VII.

- A. Violation of this ordinance is a misdemeanor punishable by fine of up to \$500/or imprisonment not to exceed 90 days or both.
- B. *Remedial Action.* Any violation of this ordinance shall also constitute a basis for injunctive relief or other appropriate remedy in any court of competent jurisdiction to compel compliance with this ordinance and enforce the provisions thereon.

60.008 - Enforcement.

VIII. This Ordinance shall be enforced by the Township Supervisor in addition to other persons designated by the Township Board.

60.009 - [Effective date.]

IX. This Ordinance shall take effect 30 days after the first publication following its adoption. All parts of ordinances in conflict herewith are hereby repealed.

61.000 - MUNICIPAL CIVIL INFRACTIONS PROCEDURES ORDINANCE Ord. No. 154 Adopted: May 9, 2016

An Ordinance providing for municipal civil infractions of certain township ordinances and penalties pursuant thereto; establishing procedures relating thereto; authorization of which township officials can issue civil infraction tickets and appearance tickets; penalties; and procedures relating to such matters.

THE TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN, ORDAINS:

61.001 - Title.

Sec. 1. This Ordinance shall be known as the "Pavilion Township Municipal Civil Infractions Procedure Ordinance."

(Ord. No. 154, 5-9-16)

61.002 - Definitions.

Sec. 2.

"Act" means Act No. 1961 PA 236, as amended, and Public Acts 1994 PA 12 26, as amended.

"Authorized township official" means a township official, police officer or other personnel or agent of the township authorized by this Ordinance or any ordinance to issue municipal civil infraction citations.

"Municipal civil infraction action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

"Municipal civil infraction citation" means a written complaint or notice prepared by an authorized township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

"Township" means Pavilion Township.

(Ord. No. 154, 5-9-16)

61.003 - Municipal Civil Infraction Action; Commencement.

Sec. 3. A municipal civil infraction action may be commenced upon the issuance by an authorized township official of a municipal civil infraction citation directing the alleged violator to appear in court.

(Ord. No. 154, 5-9-16)

61.004 - Municipal Civil Infraction Citations; Issuance and Service.

Sec. 4. Municipal civil infraction citations shall be issued and served by authorized township officials as follows:

- A. The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- B. The place for appearance specified in a citation shall be the District Court that has jurisdiction over Pavilion

Township.

- C. Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the District Court. Copies of the citation shall be retained by the township and issued to the alleged violator as provided by Section 8705 of the Act.
- D. A citation for a municipal civil infraction signed by an authorized township official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature to the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."
- E. An authorized township official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
- F. An authorized township official may issue a citation to a person if:
 - i. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - ii. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the township attorney approves in writing the issuance of the citation.
- G. Municipal civil infraction citations shall be served by an authorized township official as follows:
 - i. Except as otherwise provided below, an authorized township official shall personally serve a copy of the citation upon the alleged violator.
 - ii. If the municipal civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting a copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building or structure at the owner's last known address.

(Ord. No. 154, 5-9-16)

61.005 - Municipal Civil Infraction Citations; Contents.

Sec. 5.

- A. A municipal ordinance citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.
- B. Further, the citation shall inform the alleged violator that he or she may do one of the following:
 - i. Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
 - ii. Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance or, in person, or by representation.
 - iii. Deny responsibility for the municipal civil infraction by doing either of the following:
 - (a) Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the township.

(b) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

C. The citation shall also inform the alleged violator of all of the following:

- i. That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance, and obtain a scheduled date and time for an appearance.
- ii. That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance, and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
- iii. That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the township.
- iv. That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
- v. That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

D. The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

(Ord. No. 154, 5-9-16)

61.006 - General Penalties and Sanctions for Violations of Township Ordinances; Continuing Violations; Injunctive Relief.

Sec. 6.

- A. Unless a violation of an ordinance of the Pavilion Township is specifically designated in the ordinance as a municipal civil infraction, the violation shall be deemed to be a criminal misdemeanor.
- B. The penalty for a misdemeanor violation shall be a fine not exceeding \$500.00 (plus costs of prosecution), or imprisonment not exceeding 93 days, or both, unless a specific penalty is otherwise provided for the violation by the ordinance involved.
- C. The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by the ordinances involved, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of 1961 PA 236, as amended, 1994 PA 12-26, as amended, and other applicable laws.
 - I. Unless otherwise specifically provided for a particular municipal civil infraction violation by an ordinance (or if the ordinance involved is silent, as set by the Township Board by resolution), the civil fine for a municipal civil infraction violation shall be not less than \$100.00, plus costs and other sanctions, for each infraction.
 - ii. Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of an ordinance. As used in this Ordinance, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or ordinance (i) committed by the same person for the same property within any twelve month period (unless some other period is specifically provided by an Ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by an ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:
 - (a) The fine for any offense which is a first repeat offense shall be not less than \$100.00, plus costs.

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less plus costs.

D. A "violation" includes any act which is prohibited or made or declared to be unlawful or an offense by an ordinance, and any omission or failure to act where the act is required by an ordinance.

E. Each day on which any violation of an ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

F. In addition to any remedies available at law, the Township may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of any Township ordinance.

(Ord. No. 154, 5-9-16)

61.007 - Authorized Persons—Civil Infractions Tickets.

Sec. 7. Unless prohibited by state law or unless otherwise provided by specific provisions of a particular Pavilion Township ordinance to the contrary, the following officials are hereby designated as the authorized Township officials to issue and serve municipal civil infraction citations for violations of Township ordinances which provide for a municipal civil infraction for a violation thereof:

The Kalamazoo County Sheriff and all other deputy county sheriffs of said county

The township supervisor

The township clerk

The township zoning enforcement officer

(Ord. No. 154, 5-9-16; Ord. No. 158, 9-11-17)

61.008 - Authorized Persons—Misdemeanor Appearance Tickets.

Sec. 8. Unless prohibited by state law or unless otherwise provided by specific provisions of a particular Pavilion Township ordinance to the contrary, the following officials are empowered to issue and serve appearance tickets for violations of Township ordinances that contain criminal misdemeanor penalties for violations of the ordinance involved:

The Kalamazoo County Sheriff and all other deputy county sheriffs of said county

The township supervisor

The township clerk

The township zoning enforcement officer

(Ord. No. 154, 5-9-16; Ord. No. 158, 9-11-17)

Parts 75—89

MISCELLANEOUS

There are currently no Ordinances assigned to this category.

Part 90

90.000 - ANTI-NOISE AND PUBLIC NUISANCE Ord. No. 15 Adopted: March 9, 1964

An Ordinance to secure the public health, safety and general welfare of the residents and property owners of Pavilion Township, Kalamazoo County, Michigan, by the regulation of noise, odors and the production of dust within said Township; to prescribe penalties for the violation thereof and to repeal all Ordinances or parts of Ordinances in conflict therewith.

THE TOWNSHIP BOARD OF THE TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN, ORDAINS:

90.001 - Title.

Sec. I. This Ordinance shall be known and cited as the Pavilion Township Anti-Noise and Public Nuisance Ordinance.

90.002 - Anti-noise regulations.

Sec. II.

- (a) No person, firm, or corporation shall cause or create any unreasonable or improper noise or disturbance, injurious to the health, peace or quiet of the residents and property owners of the Township of Pavilion.
- (b) The following noise and disturbances are hereby declared to be a violation of this Ordinance; provided, however, that the specification of the same is not thereby to be construed to exclude other violations of this Ordinance not specifically enumerated:
 - (1) The sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle for any purpose other than to avoid an accident or collision.
 - (2) The playing of any radio, phonograph or any musical instrument in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of other persons.
 - (3) Yelling, shouting, hooting or singing on the public streets between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any persons in the vicinity.
 - (4) The keeping of any animal, bird or fowl which emanates frequent or extended noise which shall disturb the quiet, comfort and repose of any person in the vicinity.
 - (5) The operation of any automobile, motorcycle, or other vehicle so out of repair, so loaded or constructed as to cause loud and unnecessary grating, grinding, rattling, exhausting, or other noise disturbing to the quiet, comfort or repose of other persons.
 - (6) The operation of any steam whistle attached to a boiler of any type except for the purpose of giving notice of the time to begin or stop work or as a warning of fire or other danger, or for other purposes upon special permit therefor from the Township Board.
 - (7) The discharging outside of any enclosed building of the exhaust of any steam engine, internal combustion engine, motor vehicle, or motor boat engine, except through a muffler or other similar device which will effectively prevent loud or explosive noises resulting therefrom.
 - (8) The erection, excavation, demolition, alteration, or repair of any building, or premises in any platted residential district or section of the Township, in such a manner as to emanate noise or disturbance unreasonably annoying to other persons, including the streets and highways therein, other than between the hours of 6:00 a.m. and sundown on weekdays except in cases of urgent necessity, in the interest of public health and safety, upon receipt of a permit therefor from the building inspector of the Township, which permit shall limit the period that the activity may continue.

- (9) The emission or creation of any excessive noise on any street which unreasonably interferes with the operation church, hospital or court.
 - (10) The creation of any loud or excessive noise, unreasonably disturbing to other persons in the vicinity in connection with the loading or unloading of any vehicle, trailer, box car, or other carrier, or in connection with the opening or destruction of bales, boxes, crates, or other containers.
 - (11) The use of any drum, loudspeaker, or other instrument or device for the purpose of attracting attention to any performance, show, sale or display of merchandise which, by the creation of such noise, shall be unreasonably disturbing to other persons in the vicinity.
 - (12) The operation of any racetrack, proving ground, testing area, or obstacle course for motor vehicles, motorcycles, boats, racers, automobiles or vehicles of any kind or nature in any area of the Township not specifically zoned for such an operation and/or where the noise emanating therefrom would be unreasonably disturbing and annoying to other persons in the vicinity.
 - (13) Disturbing noises of domestic animals and poultry, frequently occurring to the annoyance of adjoining residents and property owners.
- (c) None of the prohibitions hereinbefore enumerated shall apply to any of the following:
- (1) Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities.
 - (2) Excavation or repair of bridges, streets, or highways by or on behalf of the Township of Pavilion, State of Michigan, or County of Kalamazoo, between sundown and 6:00 a.m. when the public welfare, safety, and convenience render it impossible to perform such work during other hours.
- (d) The determination of whether any noise or disturbance is a violation of the provisions of this Ordinance shall be in the absolute discretion of the supervisor of the Township, subject only to review by the Pavilion Township Board upon proper application therefor, made by the alleged violator, within five days after such determination by the supervisor. In the absence of any arbitrary, capricious or discriminatory decision by the Township Board, such decision shall be conclusive and final.

Cross reference— Outdoor assembly, § 16.010q; Uniform Building Code, Pt. 145.

90.003 - Public nuisance regulations.

Sec. III.

- (a) No person, firm or corporation shall create, cause or maintain any public nuisance within the Township of Pavilion by the unreasonable creation of dust, smoke, fly ash or noxious odors, offensive or disturbing to adjacent property owners and residents in the area.
- (b) The determination of whether any activity enumerated in Section III(a) is a public nuisance and violation of this Ordinance shall be in the absolute discretion of the supervisor of the Township, subject only to review by the Pavilion Township Board, upon proper application therefor made by the alleged violator, within five days after such determination by the supervisor. In the absence of any arbitrary, capricious, or discriminatory decision by the Township Board, such decision shall be conclusive and final.
- (c) No person, firm or corporation shall permit any domestic animal, poultry or pet to run at large upon the property of other than that of the owner thereof unless the same is supervised and under the control of his owner or agent.

90.004 - Validity.

Sec. IV. The several provisions of this Ordinance are declared to be separate and the holding of any court that any section or provision thereof is invalid shall not affect or impair the validity of any other section or portion.

90.005 - Penalties for violation.

Sec. V. Any person, firm, or corporation found violating any of the provisions of this Ordinance shall, upon conviction, be punished by a fine of not to exceed \$100.00 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment, at the discretion of the court. Each day that a violation shall continue shall constitute a separate offense. The provisions of this Ordinance may also be enforced by suit for injunction, damages, or other appropriate legal action.

90.006 - Effective date.

Sec. VI. This Ordinance shall take effect on April 22, 1964. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Part 91

91.000 - NOXIOUS WEED ORDINANCE Ord. No. 153 Adopted: December 14, 2015

An Ordinance enacted pursuant to authority set forth in 1941 PA 359, MCL 247.61, et seq., as amended, to secure the public health, safety and welfare of the residents and property owners of the Township of Pavilion by the control, regulation and eradication of noxious weeds as defined herein; to provide sanctions for the violation thereof; and to repeal all ordinances or parts of ordinances in conflict herewith.

THE TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN, ORDAINS:

91.001 - Title.

Sec. 1. This Ordinance shall be known and cited as the "Pavilion Township Noxious Weed Ordinance."

(Ord. No. 153, 12-14-15)

91.002 - Definition.

Sec. 2. For the purposes of this Ordinance, "noxious weeds" shall include Canada thistle (*Cirsium Arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus Arvensis*), hoary alyssum (*Berteroa Incana*), ragweed (*Ambrosia Flatiol* I.), poison ivy (*Rhus Toxicodendron*), poison sumac (*Toxicodendron Vernix*), lawn grasses over 8 inches in height and such other uncontrolled plant growth over 8 inches in height which is out of character with the development and landscaping in the neighborhood.

(Ord. No. 153, 12-14-15)

91.003 - Regulations.

Sec. 3.

a. It shall be the duty of all owners of land in a recorded plat or site condominium development and other

residential parcels to eradicate any noxious weeds that are growing upon that owner's land.

- b. The Supervisor shall notify, by regular mail, the owner, agent or occupant of any lands within Pavilion Township to eradicate such noxious weeds by cutting or such other methods as may be appropriate.
- c. If the owner of lands upon which noxious weeds are located fails to comply within 10 days with a notice given pursuant to Subsection B, then the supervisor and/or such other person or agent designated by the Township may enter upon the land and destroy or cut the noxious weeds thereon. All expenses incurred in such destruction or cutting shall be paid by the owner or owners of such land. The Township shall further have a lien upon such land until the expenses of such destruction or cutting have been paid, and if the same are not paid prior to the preparation of the next assessment roll in the Township, the amount shall be assessed as a special tax against such land on such next assessment roll and collected in all respects as are other taxes under the general laws of the State of Michigan. The supervisor may cause such noxious weeds to be destroyed or cut as many times as is necessary to comply with this Ordinance's provision. Failure of the Township to give a notice as prescribed in Subsection B above shall not constitute a defense to any action to enforce the payment of any penalty or debt created under the provisions of this Ordinance.
- d. The provisions of this Section shall not apply to parcels or lots which have plant growth consistent with the general character of the plant growth and landscaping in the surrounding neighborhood in which such parcels or lots are located.

(Ord. No. 153, 12-14-15)

91.004 - Penalties for violation.

Sec. 4. Any person, firm or corporation who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$100.00 or by imprisonment in the county jail, not to exceed 90 days, or by both such fine and imprisonment. Each day that a violation continues to exist shall constitute a separate offense.

(Ord. No. 153, 12-14-15)

91.005 - Severability.

Sec. 5. Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

(Ord. No. 153, 12-14-15)

91.006 - Repeal.

Sec. 6. All ordinance or parts of ordinances in conflict herewith are hereby repealed.

(Ord. No. 153, 12-14-15)

91.007 - Effective date.

This Ordinance shall take effect thirty days following the day of publication. All Ordinances or parts of Ordinances in conflict therewith are hereby repealed.

(Ord. No. 153, 12-14-15)

Part 110

110.000 - DUMPING GROUND Ord. No. 11 Adopted: October 24, 1961

An Ordinance to secure the public peace, health, safety, welfare and convenience of the residents and property owners of the Township of Pavilion, Kalamazoo County, Michigan, a municipal corporation, by the regulation of dumping grounds for waste, rubbish, junk and debris, and the operation thereof within said Township; to provide penalties for the violation thereof ; and to repeal all Ordinances and parts of Ordinances in conflict therewith.

THE TOWNSHIP BOARD OF PAVILION TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN, ORDAINS:

Footnotes:

--- (1) ---

Cross reference— *Zoning, Pt. 200.*

110.001 - Name.

Sec. 1. This Ordinance shall be known and cited as the Pavilion Township Dumping Ground Ordinance.

110.002 - Regulations.

Sec. 2.

- (a) No person, firm, or corporation shall dump any waste, rubbish, junk or debris in any area of the Township of Pavilion, Kalamazoo County, unless the same is zoned to permit such use of property under the Pavilion Township Zoning Ordinance, or unless the same is municipally maintained and operated for such dumping ground purposes or a permit is obtained therefor from the Township Board, to be granted only in situations where such dumping would not be a nuisance or annoyance to adjoining property owners.
- (b) No such dumping of waste, rubbish, junk or debris shall hereafter be allowed between sunset and sunup of each day.
- (c) No tree trunks or branches larger than four inches in diameter and no garbage, paper-manufacturing or pharmaceutical-manufacturing waste, explosives, human or animal excretion nor odoriferous materials shall be dumped in any municipally operated dumping ground. Any brush or parts of trees of less than four inches in diameter dumped in a municipally operated dump shall be dumped in the particular area designated therefor, according to signs posted on the premises.
- (d) The burning of any dumping ground area, or the waste material therein, shall be prohibited and forbidden, without the prior written approval of the supervisor and fire chief of said Township, and in no case shall be allowed within 50 feet of the utility poles or towers of any public utility company, its agents, successors or assigns.
- (e) No municipally operated dump shall be used by any person, firm, or corporation which is not a resident, property owner, or tenant within said Pavilion Township.
- (f) The material dumped in any such dumping grounds shall be substantially covered over with fill dirt periodically, as the degree of dumping requires, to maintain the area in as neat a condition as possible and free of odors, and in accordance with the orders of the Pavilion Township Supervisor.
- (g) Any dumping in municipally operated dumps shall be accomplished by depositing the waste material over the

bank of the dump, and no such waste material shall be allowed by the dumper to remain on the approachway to such bank.

- (h) No dumping of waste, rubbish, junk or debris shall be allowed in any area within 25 feet of the nearest point of the base of the towers, poles, supports or other structures of any public utility company, its agents, successors, or assigns.
- (i) Any person, firm, or corporation dumping in any municipally operated dump shall do so at his, its, or their own risk and the Township of Pavilion shall not be held liable for any injuries or damages occurring therein.
- (j) No municipally operated dump shall be used for any purpose other than for dumping operations permitted under this Ordinance. No picking or scavenging of any municipally operated dump shall be permitted by any person, firm, or corporation other than those duly so licensed, registered with and approved by the Pavilion Township Board. No loitering shall be allowed within a municipally operated dump, and no person, firm, or corporation using such dumping facilities shall interfere with the rights, duties, and privileges of any other person, firm, or corporation using said dumping facilities in accordance with the provisions of this Ordinance.
- (k) No garbage nor odoriferous material shall be burned in any area within Pavilion Township without the prior written approval of the supervisor and fire chief of said Township, to be granted only in cases where the same would not be a nuisance to, or unsafe for surrounding properties, property owners, and neighbors.
- (l) The Township of Pavilion shall not be liable for any damage to property adjoining a municipally operated dump caused by fires within said dump not approved in writing by the supervisor and fire chief of said Township.

Cross reference— Sewer, § 114.005(a); fire code, Pt. 130; electrical code, Pt. 146.

110.003 - Penalties for violations.

Sec. 3. Any person, firm, or corporation which 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 \$100.00, or by imprisonment in the county jail, not to exceed 90 days, or by both such fine and imprisonment. Each day that a violation occurs shall constitute a separate offense.

110.004 - Effective date.

Sec. 4. This Ordinance shall take effect on the 4th day of December, 1961. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Part 111

111.000 - LITTER ORDINANCE NO. 161 ADOPTED: MAY 14, 2018 EFFECTIVE: JUNE 14, 2018

An Ordinance to protect the public health, safety and general welfare of persons and property within Pavilion Township through the regulation, control and prohibition of the depositing of rubbish, waste, litter, and debris upon public and private property within the Township; to provide penalties for the violation thereof and to repeal any ordinances or parts of ordinances in conflict therewith, pursuant to MCL 41.181

TOWNSHIP OF PAVILION KALAMAZOO COUNTY, MICHIGAN ORDAINS:

Footnotes:

--- (1) ---

Cross reference— *Fire Code, Pt. 130; Zoning, Pt. 200.*

111.001 - Title.

Sec. I. This Ordinance shall be known and cited as the "Pavilion Township Litter Ordinance."

(Ord. No. 161, § I, 5-14-18)

111.002 - Definitions.

Sec. II.

Litter as used in this Ordinance means all garbage, scrap and waste materials including rags, cartons, paper, cans, bottles, used lumber, boxes, wooden skids or pallets or parts therefrom (excluding those stored and used in connection with an industrial or commercial operation on the site), inoperable and discarded appliances and equipment, cut or broken tree branches, broken or discarded plaster, concrete, or brick building materials, scrap metal, discarded motor vehicle parts, and tires.

(Ord. No. 161, § II, 5-14-18)

111.003 - Regulations.

Sec. III.

- a. It shall be unlawful for any person, without the consent of the public authority having supervision of public property or the owner of private property, to dump, deposit, place, throw or leave, or cause or permit the dumping depositing, placing, throwing, or leaving of litter or any other materials on any public or private property or waters within the Township of Pavilion other than property designated and set aside for such purposes.

The phrase "public or private property or waters" includes, but is not limited to, the right-of-way of any road or highway, any body of water or water course, or the shores or beaches thereof, and including the ice above such waters; any park, playground, building, refuge, or conservation or recreation area; and any residential, commercial, industrial, or farm properties or vacant or unimproved lands.

- b. It shall be unlawful for any person to aid, assist, or abet another to violate any of the provisions of the within Ordinance.
- c. The owner or occupant of any building or premises within the Township shall not permit or cause the outdoor storage of litter on such premises, subject to the following exceptions:
 - (1) Such litter does not include garbage or other putrescible liquids or solids placed within a properly covered receptacle or screened from the view of all adjacent properties and abutting public or private right-of-ways when being stored only between regular, not less than monthly, litter collection by a public or private litter or garbage collection service.
 - (2) Backyard composting, on a residential property when residential in scale, in a controlled microbial degradation process of compostable material generated on site to yield a humus-like mulch to be used as a soil amendment provided there are no odorous or other nuisances created by said composting activity.
 - (3) Logs, branches, or other scrap wood may be neatly stacked outdoors on an occupied premises, provided such storage (1) does not exceed 2,500 cubic feet in area, (2) is not located within any required building setback areas as specified in the Pavilion Township Zoning Ordinance, and (3) complies with all applicable

Township Fire Code and other ordinance requirements. The limitation of 2,500 cubic feet shall not apply to logs, branches, or other scrap wood stored and used in connection with an industrial or commercial operation on the site.

- (4) Such litter is located in a duly licensed and properly zoned junk yard, salvage yard, or landfill where such uses or operations are legally authorized under the Pavilion Township Zoning Ordinance.
- (5) A special permit is first obtained therefore for a period not to exceed 45 days from the Supervisor of Pavilion Township or such other officer or official as the Township Board may designate to be granted only in special hardship cases beyond the control of the applicant, where special or peculiar circumstances exist, where no adjoining property owner is adversely affected thereby and where the spirit and purpose of these regulations are still observed. A special permit granted hereunder may be renewed for not more than one additional 45-day period upon a showing of due diligence and continued satisfaction of the criteria set forth above for the issuance of the initial permit.

(Ord. No. 161, § III, 5-14-18)

111.004 - Sanctions.

Sec. IV. Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with the following schedule:

| | | Minimum Fine | Maximum Fine |
|---|---|--------------|--------------|
| — | 1st offense within 3-year period* | \$ 75.00 | \$500.00 |
| — | 2nd offense within 3-year period* | 150.00 | 500.00 |
| — | 3rd offense within 3-year period* | 325.00 | 500.00 |
| — | 4th or more offense within 3-year period* | 500.00 | 500.00 |

* Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Pavilion Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$100.00 nor more than \$500.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance continues to exist shall constitute a separate offense.

(Ord. No. 161, § IV, 5-14-18)

111.005 - Validity.

Sec. V. Should any section, clause, or provision of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof other than the part or portion thereof so declared to be invalid.

(Ord. No. 161, § V, 5-14-18)

111.006 - Repeal.

Sec. VI. All ordinances or parts of ordinances in conflict herewith are hereby repealed, including Ordinance No. 14 (Litter, Debris and Earth Leveling, adopted March 9, 1964, effective April 22, 1964).

(Ord. No. 161, § VI, 5-14-18)

111.007 - Effective date.

Sec. VII. This Ordinance shall take effect thirty days after publication upon adoption.

(Ord. No. 161, § VII, 5-14-18)

Part 112

112.000 - SEWAGE DISPOSAL SYSTEM REVENUE BONDS Ord. No. 58 Adopted: April 9, 1979

An Ordinance authorizing the issuance of \$890,000 sewage disposal system revenue bonds by the Township of Pavilion County of Kalamazoo, Michigan, for the purpose of paying part of the cost of acquiring and constructing said system for said Township; prescribing the form of bonds; providing for the collection of revenue from said system sufficient for the purpose of paying the costs of operation and maintenance thereof; providing an adequate reserve fund therefor; providing for the payment of said bonds and for the segregation and distribution of said revenues; providing for the rights of the holders of said bonds in enforcement thereof; and providing for other matters relative to said bonds and said system.

THE TOWNSHIP OF PAVILION ORDAINS:

112.001 - Necessity; description of project.

Sec. 1. It is hereby determined to be necessary for the public health and welfare of the Township of Pavilion (the "issuer") to proceed to acquire and construct, in accordance with detailed maps, plans and specifications therefor prepared by Wilkens & Wheaton Engineering Co., consulting engineers of Kalamazoo, Michigan (the "engineer"), a sanitary sewage disposal system consisting generally of sanitary sewer lines, pumps, lift stations and all facilities used or useful in the collection and disposal of domestic, commercial or industrial wastes, together with the necessary appurtenances and attachments thereto and rights in land (the "project").

112.002 - Cost; useful life.

Sec. 2. The cost of said public improvements has been estimated by said engineer to be \$1,695,840.00, including the payment of incidental expenses as specified in section 3 of this Ordinance, which estimate of cost is hereby approved and confirmed, and the period of usefulness of said public improvements is estimated to be not less than 40 years.

112.003 - Payment of cost.

Sec. 3. To pay part of the cost of acquiring and constructing the project, including the payment of legal, engineering and financial expenses, eighteen months of capitalized interest on bonds and other expenses incident thereto and incident to the issuance and sale of the bonds, it is hereby determined that the issuer borrow the sum of \$890,000.00 and that revenue bonds be issued therefor pursuant to the provisions of Act 94, Public Acts of Michigan, 1933, as amended. The balance of the cost of the project will be paid from grants payable to the issuer. Should the full amount of capitalized interest not be needed to pay interest on the bonds, any surplus may be used as capitalized operation and maintenance funds to pay such costs until sufficient revenues have developed.

112.004 - Definitions.

Sec. 4. Whenever the words "the system" are referred to in this Ordinance, they shall be understood to mean the complete project and all extensions and improvements thereto hereafter made.

Whenever the word "acquired" is used in this Ordinance it shall be construed to include acquisition by purchase, construction or by any other method.

Whenever the initials "FmHA" are used in this Ordinance they shall mean the Farmers Home Administration, an agency of the United States Department of Agriculture.

Whenever the word "government" is used in this Ordinance it shall be understood to mean the government of the United States of America.

Whenever the words "issuer" or "Township" and "Township Board" are used in this Ordinance they shall be understood to mean the Township of Pavilion, Kalamazoo County, Michigan and its governing board.

Whenever the words "public improvements" are used in this Ordinance, they shall be understood to mean the improvements authorized to be acquired and constructed under the provisions of this Ordinance.

Whenever the words "revenues" and "net revenues" are used in this Ordinance, it shall be understood to have the meanings as defined in section 3, Act 94, Public Acts of Michigan, 1933, as amended, and shall include earnings on investment of revenue funds of the public improvements.

(Amended: Ord. No. 60, 7-9-79)

112.005 - Bond data.

Sec. 5. Said bonds shall be designated 1979 Sewage Disposal System Revenue Bonds, (hereinafter sometimes referred to as "bonds") shall be dated as of the date of delivery, shall consist of 178 bonds in the denomination of \$5,000.00 each and shall be numbered from one upwards.

The bonds will bear interest not exceeding five percent per annum, from the date of registration, all interest to be payable on the first May 1st or November 1st following the date of delivery of the bonds, and semiannually thereafter on May 1 and November 1 of each year until payment of the principal amount of such bond. Said bonds shall be numbered in direct order of maturity from one upwards, and shall mature serially on May 1st of each year in the following manner:

| | |
|-----------|--------------------------|
| \$ 10,000 | 1981; |
| 20,000 | 1982 to 1989, inclusive; |

| | |
|--------|--------------------------|
| 30,000 | 1990 to 1997, inclusive; |
| 40,000 | 1998 to 2009, inclusive. |

Said bonds shall be signed by the supervisor and countersigned by the clerk of the issuer and shall have the corporate seal of the issuer impressed thereon, and in the event of interest coupons, said interest coupons shall bear the facsimile signatures of the same officials. After execution, the bonds shall be held by the Township Treasurer for delivery to the purchaser.

Both principal and interest shall be payable in lawful money of the United States of America to the registered holder as shown on the registration books of the issuer kept by its treasurer as bond registrar at the issuer's office. The bonds shall be registered as to principal and interest. Transferability by delivery may be achieved, at the expense of the holder, by (1) registration to bearer and the attachment of interest coupons reflecting interest not due and payable at said time, or (2) surrender of the bond and issuance of a new coupon bond with appropriate interest coupons attached thereto. In which cases the issuer shall name a paying agent bank or trust company qualified under Michigan law to act as such and situated in Kalamazoo County, Michigan.

Bonds will be subject to redemption prior to maturity in the manner and at the times provided in section 6 hereof.

112.006 - Bond form.

Sec. 6. The form and tenor of said bonds shall be substantially as follows:

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF KALAMAZOO
TOWNSHIP OF PAVILION
1979 SEWAGE DISPOSAL SYSTEM REVENUE BOND

No. R_____ \$5,000.00

KNOW ALL MEN BY THESE PRESENTS that the Township of Pavilion, County of Kalamazoo, State of Michigan (the "issuer"), for value received, hereby promises to pay to the registered holder hereof, but only out of the revenues of the issuer's sewage disposal system (the "system"); including all appurtenances, additions, extensions and improvements thereto, the sum of

FIVE THOUSAND DOLLARS

on the first day of May, A.D., _____, with interest thereon from the date hereof until paid at the rate of five percent per annum, payable on _____, and semiannually thereafter on the first day of _____ and _____ of each year. Both principal of and interest on this bond are payable in lawful money of the United States of America at the issuer's offices to the registered holder hereof as shown on the issuer's registration books and for the prompt payment thereof, the gross revenues of the system including all appurtenances, additions, extensions and improvements thereto, after provision has been made for reasonable and necessary expenses of operation, administration and maintenance are hereby irrevocably pledged and a statutory first lien thereon is hereby created.

This bond is one of a series of 178 bonds of even date and like tenor, except as to denomination and date of maturity, aggregating the principal sum of \$890,000.00, numbered consecutively in direct order of maturity from one upwards, issued pursuant to Ordinance No. _____, duly adopted by the issuer on _____, 1979, and under and in substantial compliance with the constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of defraying part of the cost of acquiring and constructing a sewage disposal system for portions of the Township of Pavilion, together with the necessary appurtenances, attachments and equipment related thereto. For a complete statement of the revenues from which, and the conditions under which this bond is payable, a statement of the conditions, under which the additional bonds of equal standing may hereafter be issued, and the general covenants and provisions pursuant to which this bond is issued, reference is made to the above-described Ordinance.

Bonds maturing in the years 1981 to 1984, inclusive, will not be subject to redemption prior to maturity.

Bonds maturing in the years 1985 to 2009, inclusive, will be subject to redemption prior to maturity, in inverse numerical order, at the issuer's option on any interest payment date on or after May 1, 1984, at par and accrued interest to the date fixed for redemption.

Thirty days' notice of the call of any bonds for redemption shall be given by mail to the registered holder at the registered address. Bonds so called for redemption shall not bear interest after the date fixed for redemption, provided funds are on hand to redeem said bonds.

Said bonds shall be registered as to principal and interest on the books kept by the issuer's treasurer as registrar in the name of the holder after which they shall be transferable only upon presentation to such registrar with a written transfer by the registered holder or his attorney in fact. Such transfer shall be noted upon the books of the issuer kept for that purpose. Said bonds once registered are exchangeable at the request of the registered owner hereof and at his sole expense for a negotiable coupon bond payable to bearer, upon surrender of this bond to the borrower at the office of the issuer's treasurer. Transferability by delivery may also be restored at the holder's expense by registration to bearer and the attachment of appropriate interest coupons.

This bond is a self-liquidating bond, and is not a general obligation of nor does it constitute an indebtedness of said issuer within any constitutional or statutory limitation, but is payable, both as to principal and interest, solely from the revenues of the system.

The issuer hereby covenants and agrees to fix and maintain at all times while any of such bonds shall be outstanding, such rates for service furnished by said system as shall be sufficient to provide for payment of the interest upon and the principal of all such bonds as and when the same become due and payable, and to create a bond and interest redemption fund (including a bond reserve account) therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of said system as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for said system as are required by said Ordinance.

It is hereby certified and recited that all acts, conditions and things required by law precedent to and in the issuance of this bond and the series of bonds of which this is one have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the Township of Pavilion, County of Kalamazoo, State of Michigan, by its legislative body has caused this bond to be signed in its name by its supervisor and to be countersigned by its clerk, and its corporate seal to be hereunto affixed, all as of _____, 19____.

| | |
|------------------------|--|
| | TOWNSHIP OF PAVILION COUNTY OF KALAMAZOO STATE OF MICHIGAN |
| | By ____ Township Supervisor |
| (SEAL) | |
| Countersigned: | |
| ____ Township Clerk | |

REGISTRATION
 NOTHING TO BE WRITTEN HEREON EXCEPT BY THE
 TOWNSHIP TREASURER AS REGISTRAR

| | Date of Registration | : | Name of Registered Owner | : | Registrar |
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(Form of coupon if requested)

No. ____

On the first day of _____, A.D., 19____, the Township of Pavilion, County of Kalamazoo, State of Michigan, will pay to the bearer hereof the sum of _____ Dollars, in the manner and out of the revenues described in said bond at _____ being the semiannual interest due that date on its 1979 Sewage Disposal System Revenue Bonds, dated _____, No. _____.

This coupon is not a general obligation of the Township of Pavilion but is payable out of certain revenues as set forth in the bond to which it pertains.

Township Supervisor

Township Clerk

112.007 - Security for bonds.

Sec. 7. The bonds hereby authorized, together with interest thereon, shall not be a general obligation of the issuer but shall be payable solely from the net income and revenues to be derived from the operation of the system. To pay such principal and interest as and when the same shall become due, there is hereby created a statutory first lien upon the whole of the net revenues of said system to continue until the payment in full of the principal and interest on said bonds and said revenues and shall be set aside for the purpose and identified as the "1979 Sewage Disposal System Revenue Bond—Bond and Interest Redemption Fund Account," as hereinafter specified.

112.008 - Custodian of funds; supervised bank accounts; funds.

Sec. 8. The issuer's treasurer shall be custodian of all funds belonging to and/or associated with the system and such funds shall be deposited in The American National Bank & Trust Co., of MI, Kalamazoo, Michigan (the "depository bank"), which bank is a member of the Federal Deposit Insurance Corporation. In the event that the government is a holder of any of the bonds

herein authorized, all monies in excess of \$15,000 in the supervised bank account shall be secured by the depository bank in advance in accordance with United States Treasury Department Circular No. 176 and the issuer's treasurer shall execute a fidelity bond in an amount not less than \$30,000.00 with a surety company approved by the FmHA, and the FmHA and the issuer shall be named as co-obligees in such bond and the amount thereof shall not be reduced without the prior written consent of the FmHA. The issuer's treasurer is hereby directed to create the following funds and accounts into which the bond proceeds and the revenues and income from the system shall be deposited, which account shall be established and maintained except as otherwise provided, so long as any of the bonds hereby authorized remain unpaid.

A. *Construction Account.* The proceeds of the bonds hereby authorized and a sum from grant funds of not less than the amount necessary to complete the cost of the project shall be deposited in the Construction Account in the depository bank. In the event the government is a holder of any of the bonds herein authorized, then said account shall be established as a supervised bank account and such proceeds shall be withdrawn on the orders of the issuer only on checks signed by its treasurer and countersigned by the county supervisor of the FmHA. Said monies shall be used solely for the purposes for which the bonds were issued.

Any unexpended balance of the proceeds of sale remaining after completion of the project herein authorized may in the discretion of the issuer, to the extent of 15 percent of the amount of the bonds authorized by this Ordinance, be used for further improvements, enlargements and extensions to the system, provided that at the time of such expenditure such use be approved by the Municipal Finance Commission. Any remaining balance after such expenditure shall be paid into the Bond and Interest Redemption Fund and shall be used for such purposes as allowed by law.

In the event that the government is a holder of any or all of the bonds any unexpended balance of the proceeds of the sale remaining after completion of the project herein authorized shall be paid immediately into the Bond and Interest Redemption Fund as hereinafter specified and shall be used only for the redemption, or purchase at not more than the fair market value, of outstanding bonds issued pursuant to the provisions of this Ordinance.

After completion of the project and disposition of remaining bond proceeds, if any, pursuant to the provisions of this section, the Construction Account shall be closed.

B. *Sewer Disposal System Receiving Fund Account.* Upon the effective date of this Ordinance, the gross income and revenue of the system shall be set aside into a separate account to be designated the Sewage Disposal System Receiving Fund Account, and moneys so deposited therein shall be expended and used only in the manner and order as follows:

- 1) *Operation and Maintenance Account.* Prior to the beginning of each fiscal year the issuer will prepare an annual budget of said system for the ensuing fiscal year itemized on the basis of monthly requirements, a copy of such budget shall be mailed without request to the FmHA as long as the government is holder of any of said bonds prior to adoption for review and upon written request to any other bond holders. Upon the effective date of this Ordinance, there shall be set aside and deposited each quarter pursuant to the budget a sufficient portion of the income and revenue in the Operation and Maintenance Account to pay the reasonable and necessary current expenses of administration, operating and maintaining said system for the ensuing quarter.
- 2) *1979 Sewage Disposal System Revenue Bond—Bond and Interest Redemption Fund.* After the transfer required in (1) above, there shall be transferred each quarter from the Sewage Disposal System Receiving Fund Account, before any other expenditures or transfer therefrom, and deposited in the 1979 Sewage Disposal System Revenue Bond—Bond and Interest Redemption Fund Account for payment of principal and interest on the bonds a sum equal to at least ½ of the amount of interest (not capitalized) due on the next

ensuing interest due date and beginning no later than May 1, 1980 not less than $\frac{1}{4}$ of the principal maturing on May 1, 1981 and May 1st of each year thereafter. If for any reason there is a failure to make such quarterly deposit then an amount equal to the deficiency shall be set aside and deposited in the Redemption Fund Account of the net revenues in the ensuing quarter or quarters, which amount shall be in addition to the regular quarterly deposit required during such succeeding quarter or quarters.

There is hereby established in the Bond and Interest Redemption Fund a separate account to be known as the Bond Reserve Account, into which there shall be paid in cash prior to issuance of the Bonds from Township funds on hand the sum of \$7,500.00. Thereafter there shall be transferred each quarter from the Sewage Disposal System Receiving Fund Account, after the transfers required in (1) and (2) above, all sums remaining therein over and above amounts due from the Township to the City of Portage pursuant to existing contractual arrangements, until said Bond Reserve Account shall total \$60,000. Except as hereinafter provided, no further deposits need be made into the Bond and Interest Redemption Fund for the purposes of the Bond Reserve Account once the sum of \$60,000.00 has been deposited therein. The monies in the said Bond Reserve Account shall be used solely for the payment of the principal and interest on said Bonds as to which there would otherwise be default. Any income from investment of funds in the Bond Reserve Account shall be transferred quarterly to the General Purpose Account, so long as said Bond Reserve Account shall remain at the maximum amount established herein.

If at any time it shall be necessary to use monies in the Bond Reserve Account for such payment, then the monies so used shall be replaced from the net revenues first received thereafter which are not required by this Ordinance to be used for operation and maintenance or for current principal and interest requirements.

No further payments need be made into the Bond and Interest Redemption Fund after enough of the bonds have been retired so that the amount then held in said fund (including the Bond Reserve Account), is equal to the entire amount of principal and interest which will be payable at the time of maturity of all the Bonds then remaining outstanding.

- 3) *General Purpose Account.* The balance of income and revenue after the transfers required in (1) and (2) above have been made, shall be deposited to a General Purpose Account which Account shall be used and disbursed only for the purpose of paying the cost of repairing or replacing any damage to the system which may be caused by any unforeseen catastrophe, for paying the Township's contractual obligation to the City of Portage, for making extensions or improvements to the system, and when necessary for the purpose of making payments of principal and interest on the bonds hereby authorized if the amount in the Redemption Fund Account and Bond Reserve Account is not sufficient to meet such payments. The total of such deposits to the General Purpose Account and balance of said account need not exceed the sum of \$53,000.00. The funds in the General Purpose Account may be invested in accordance with state law. Any such investment will be a part of the General Purpose Account.
- 4) *Surplus monies.* Whenever there shall accumulate in the Redemption Fund Account amounts in excess of the requirements during the next 18 months for paying the principal of bonds falling due and interest on outstanding bonds, and in excess of the requirements of the Operation and Maintenance Account and the Reserve Account hereinafter established, such excess may be used by the issuer for redemption of bonds in the manner set out below.

All monies remaining in the Receiving Fund at the end of any operating year after satisfying the above requirements shall be transferred to the Bond and Interest Redemption Fund and used to call bonds for redemption, or at the option of the issuer transferred to the General Purpose Account and used for the purpose

for which said Account was established; provided, however, that if there should be a deficit in the Operation and Maintenance Fund, Bond and Interest Redemption Fund or the General Purpose Account, on account of defaults in setting aside therein the amounts hereinbefore required, then transfers shall be made from such funds remaining in the Receiving Fund to such funds in the priority and order named, to the extent of such deficits. Surplus monies may be used to retire junior bond issues.

(Amended: Ord. No. 60, 7-9-79)

112.009 - Rates and charges.

Sec. 9. Prior to the issuance of the bonds, rates and charges for the services of the system will be fixed in an amount sufficient to pay the costs of operating and maintaining the said system and to leave an amount of revenues adequate for the payment of principal and interest on the bonds, other debt service, reserve, replacements and improvements requirements and all other requirements provided herein, and otherwise comply with the covenants herein provided. The rates and charges for all services and facilities rendered by the system shall be reasonable and just, taking into consideration the costs and value of said system and the cost of maintaining, repairing and operating the same and the amounts necessary for the retirement of all bonds and the interest thereon, and there shall be charged such rates and charges as shall be adequate to meet the requirements of this and the preceding section. The charges for the system's services which are, under the provisions of Section 21, Act 94, Public Acts of Michigan, 1933, as amended, made a lien on all premises served thereby, unless notice is given that a tenant is responsible, are hereby recognized to constitute such lien and whenever any such charges against any piece of property shall be delinquent for six months, the issuer official or officials in charge of the collection thereof shall certify annually, on August 1st of each year to the tax assessing officer the fact of such delinquency, whereupon such delinquent charge shall be entered upon the next tax roll as a charge against such premises and the lien thereof enforced in the same manner as general taxes against such premises are collected and the lien thereof enforced, provided, however, where notice is given that a tenant is responsible for such charges and service as provided by said Section 21, no further service shall be rendered such premises until a cash deposit of not less than one full year's service shall have been made as security for payment of such charges and service.

112.010 - No free service.

Sec. 10. No free service shall be furnished by said system to any individual, firm or corporation, public or private or to any public agency or instrumentality.

Cross reference— Public water and sewers, § 113.03(c)(4).

112.011 - Covenants.

Sec. 11. The issuer covenants and agrees, so long as any of the bonds hereby authorized remain unpaid, and as long as the government is the holder of any of the bonds, as follows:

- a) It will comply with applicable state laws and regulations and continually operate and maintain the system in good condition.
- b) (i)
It will maintain complete books and records relating to the operation of the system and its financial affairs and will cause such books and records to be audited annually at the end of each fiscal year and an audit report

prepared, and will furnish FmHA, without request, a copy of each audit report and will furnish any other holder of any bonds a copy of such report upon written request. The FmHA shall have the right to inspect the system and the records, accounts, and data relating thereto at all reasonable times.

- (ii) It will file with the Municipal Finance Commission and the FmHA each year, as soon as is possible, not later than 90 days after the close of the fiscal year, a report, on forms prepared by the commission, made in accordance with the accounting method of the issuer, completely setting forth the financial operation of such fiscal year for its own purposes.
 - (iii) It will also cause an annual audit of such books of record and account for the preceding operating year to be made each year by a recognized independent certified public accountant, and will cause such accountant to mail a copy of such audit to the FmHA or to the manager of the syndicate or account purchasing the bonds. Such audit shall be completed and so made available not later than three months after the close of each operating year, and said audit may, at the option of the issuer be used in lieu of the statement on forms prepared by the Municipal Finance Commission and all purposes for which said forms are required to be used by this Ordinance.
- c) It will maintain and carry, for the benefit of the holders of the bonds, insurance on all physical properties of the system, of the kinds and in the amounts normally carried by municipalities engaged in the operation of similar systems. All monies received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed, and to the extent not so used, shall be used for the purpose of calling bonds. Said insurance will be in an amount not less than such amounts as may be specified by letter of intent to meet conditions, Form FmHA 442.46 and said insurance shall be approved by the FmHA.
 - d) It will not borrow any money from any source or enter into any contract or agreement to incur any other liabilities that may in any way be a lien upon the revenues or otherwise encumber the system so as to impair revenues therefrom, without obtaining the prior written consent of the FmHA, nor shall it transfer or use any portion of the revenues derived in the operation of the system for any purpose not herein specifically authorized.
 - e) It will not voluntarily dispose of or transfer its title to the system or any necessary part thereof, including lands and interest in lands, by sale, mortgage, lease or other encumbrances, without obtaining the prior written consent of the FmHA.
 - f) Any extensions or improvements of the system shall be made according to sound engineering principles and specifications shall be submitted to the FmHA for prior review.

112.012 - Additional bonds.

Sec. 12. The issuer may issue additional bonds of equal standing for the following purposes and on the following conditions:

- (a) To complete construction of the project according to the plans set forth in section 1, bonds in the amount necessary may be issued.
- (b) For the purpose of making reasonable repair, replacement or extension of the system additional bonds of equal standing may be issued if:
 - (i) The net revenues of the system for the fiscal year preceding the year in which such additional bonds are to be issued were 120 percent of the average annual debt service requirements on all bonds then outstanding and those proposed to be issued; or,
 - (ii) The holders of at least 75 percent of the then outstanding indebtedness consent to such issue in writing.

The funds herein established shall be applied to all additional bonds issued pursuant to this section as if said bonds were part of the original bond issue and all revenue from any such extension or replacement constructed by the proceeds of an additional bond issue shall be paid to the Receiving Fund Account mentioned in this Ordinance.

Except as otherwise specifically provided so long as any of such bonds herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said system shall be incurred or issued by the issuer unless the same shall be junior and subordinate in all respects to the bonds herein authorized.

112.013 - Ordinance shall constitute contract.

Sec. 13. The provisions of the Ordinance shall constitute a contract between the issuer and the bondholders and after the issuance of such bonds this Ordinance shall not be repealed or amended in any respect which will adversely affect the rights and interests of the holders nor shall the issuer adopt any law, Ordinance or resolution in any way adversely affecting the rights of the holders so long as said bonds or interest thereon remains unpaid.

112.014 - Refunding of bonds.

Sec. 14. If at any time it shall appear to the FmHA that the issuer is able to refund, upon call for redemption or with consent of the FmHA, the then outstanding bonds by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and period of time, the issuer will, upon request of the government, apply for and accept such loan in sufficient amount to repay the government, and will take all such actions as may be required in connection with such loans.

112.015 - Default of issuer.

Sec. 15. If there shall be default in the Redemption Fund, provisions of this Ordinance or in the payment of principal or interest of any of the bonds, upon the filing of a suit by the holders of 20 percent of the bonds then outstanding any court having jurisdiction of the action may appoint a receiver to administer said system on behalf of the issuer with power to charge and collect rates sufficient to provide for the payment of the bonds and for the payment of operation expenses and to apply income and revenues in accordance with this Ordinance and the laws of Michigan.

The issuer hereby agrees to transfer to any bona fide receiver or other subsequent operator of the system, pursuant to any valid court order in a proceeding brought to enforce collection or payment of the issuer's obligations, all contracts and other rights of the issuer conditionally, for such time only as such receiver or operation shall operate by authority of the court.

The holders of 20 percent of the bonds outstanding in the event of default may require by mandatory injunction the raising of rates in a reasonable amount.

112.016 - Ordinance subject to Michigan law and FmHA regulations.

Sec. 16. The provisions of this Ordinance are subject to the laws of the State of Michigan and to the present and future regulations of the FmHA not inconsistent with the express provisions hereof and Michigan law.

112.017 - Fiscal year of system.

Sec. 17. The fiscal year for operating the system shall be consistent with that of the issuer's.

112.018 - Issuer subject to loan agreement.

Sec. 18. So long as the government is holder of any of the bonds, the issuer shall be subject to the loan agreement (form FmHA 442-47) with the FmHA and shall comply with all provisions thereof.

112.019 - Municipal finance commission approval, sale of bonds.

Sec. 19. The clerk is authorized and directed to make application to the Municipal Finance Commission for authority to issue and sell said bonds, and after receipt of said approval privately negotiate the sale of said bonds to the FmHA at an interest rate not to exceed five percent per annum.

112.020 - Conflict and severability.

Sec. 20. All Ordinances, resolutions and orders or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed, and each section of this Ordinance and each subdivision of any section thereof is hereby declared to be independent, and the finding or holding of any section or subdivision thereof to be invalid or void shall not be deemed or held to affect the validity of any other section or subdivision of this Ordinance.

112.021 - Paragraph headings.

Sec. 21. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be a part of this Ordinance.

112.022 - Publication and recordation.

Sec. 22. This Ordinance shall be published in full in *The Commercial Express*, a newspaper of general circulation in the issuer qualified under state law to publish legal notices, promptly after its adoption, and the same shall be recorded in the Ordinance book of the issuer and such recording authenticated by the signatures of the Township supervisor and clerk.

112.023 - Effective date.

Sec. 23. This Ordinance is hereby determined by the Township Board to be immediately necessary for the preservation of the health, safety and welfare of the issuer and shall be in full force and effect from and after its passage and publication as required by law.

Part 113

113.000 - PUBLIC WATER AND SEWER SERVICE Ord. No. 37 Adopted: October 11, 1971

An Ordinance to regulate and control the construction, installation, extension, service connection, and operation of public water and sewer mains and public water and sewer service within the Township of Pavilion; to prescribe procedures for securing such public water or sewer service and the rates and charges for the same and to provide penalties for the violation of such Ordinance regulations.

THE TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN, ORDAINS:

Footnotes:

--- (1) ---

Cross reference— *Outdoor assembly, § 16.010; sewage disposal system: rates, usage, regulations, mandatory connection and enforcement, Pt. 114; plumbing code, Pt. 147; subdivision, Pt. 175.*

113.001 - Title.

Sec. I. This Ordinance shall be known and hereafter cited as the Pavilion Township Public Water and Sewer Service Ordinance.

113.002 - Definition.

Sec. II. For purposes of this Ordinance and the rules and regulations of the Township Board or the utility board, the following are applicable:

- A. *Pavilion Township*. The territory consisting and limited to the Township described as Town 3 South, Range 10 West, of Kalamazoo County, Michigan.
- B. *Sanitary sewage*. The waste water of the community which has become polluted through use, not including storm water.
- C. *Sanitary sewage disposal system*. (As related to either Portage or Pavilion) All sanitary sewers, works, instrumentalities and properties, or parts thereof, used or useful in connection with the collection and/or disposal of sanitary sewage and/or industrial wastes. The word "system" when used alone shall be deemed to mean the sanitary sewage disposal system of either Portage or Pavilion as indicated by the context.
- D. *Industrial wastes*. Liquid wastes resulting from any commercial, manufacturing or industrial operation or process.
- E. *Sewage disposal service*. Acceptance, transportation, collection, treatment and disposal of sanitary sewage.
- F. *Property leads*. Pipes extending from the sanitary sewer in a street or right-of-way to the vicinity of the private property line.
- G. *Facility unit*.
 - 1. A structure or area designed or used for single family occupancy.
 - 2. Each separate apartment in a multi-family housing facility.
 - 3. Two or less small efficiency type apartments, each consisting of not more than two rooms, exclusive of bathroom, designed and used as living quarters for not more than two persons per apartment.
 - 4. Accommodations in a rooming house, nursing home or comparable facility for each four persons or portion thereof, other than the proprietor and his family, who shall also constitute a facility unit.
 - 5. A mobile home when used as housing.
 - 6. Accommodations for each 15 persons or portion thereof enrolled or employed in a school or comparable facility not providing for continuous occupancy.
 - 7. Seating accommodations for each 60 persons or portion thereof which can be provided in a church, theatre, lodge, or other meeting place.
 - 8. Each 1,000 square feet of floor area or fraction thereof of a commercial structure.
- H. *Utility board*. The Pavilion Township Board in regular or special session unless otherwise delegated.

113.003 - Procedure.

Sec. III.

- A. *Application*. Any person, firm, or corporation desiring public water or sewer service may file an application

therefor with the Township clerk, containing the name and address of the applicant; a description of the land or premises to be serviced; the nature of the use anticipated for the water and the nature and/or type of waste to be discharged; the size of the water service connection pipes desired; the distance, if known, that the property is located from any existing public water or sewer main; the anticipated number of connections from the property contemplated in the foreseeable future; and whether the applicant wishes to pay cash for the necessary water and/or sewer main extension or wishes to be included in a special assessment district for the payment of such cost over a limited period of years, together with interest and administrative costs. Such application may take the form of a petition if several different persons are jointly interested in a particular project.

B. *Special assessment district.* In the event an applicant desires to proceed by installment payments and sufficient similar interest is disclosed on the application or petition by those property owners abutting the proposed water or sewer main, special assessment proceedings shall be instituted under Michigan Public Act 188 of 1954, as amended, (M.S.A. Section 5.2770 (51, et cetera)), to accomplish the requested project and if successful, the necessary system will be installed by the Township following the completion of such proceedings and the obtaining of the necessary funds therefor.

C. *Cash deposit.*

1. In the event an applicant desires to deposit with the Township, the total cost of the necessary project to furnish the requested water or sewer service, as determined by the Township Board, the applicant may do so under a contract with the Township, whereby the Township, together with the City of Kalamazoo, will supervise and/or construct the installation, in accordance with the design standards of the said City and Township.
2. Any such contract may provide for reimbursement to the applicant of a portion of the project cost from connection charges collected by the Township from those connecting to the water or sewer main, who did not contribute to the initial cost thereof and are not the successors in title to any such contributor. Any such reimbursement shall be limited to a period of 12 years following the completion of the project requested and any connections made thereafter shall not require any refund to the applicant. The amount of the connection charge shall be in the discretion of the Township Board but shall approximate the amount a connector would have paid on a benefit assessment basis, had his property been included in a water or sewer special assessment district created for the purpose of financing the project. The term "connection charge" as used in this Ordinance pertains to a charge for the privilege of connecting premises to a water or sewer main and does not pertain to the construction cost of such connection.
3. The amount of refund, if any, to an applicant, per connection charge collected by the Township shall be specified in the contract with the applicant and shall be based upon a portion of the total project cost, computed on the cost per lineal foot of main installed; provided, however, that the total refund shall never be greater than the total cost of the project charged to the applicant.
4. No service connection nor main extension shall be allowed until the full charge has been paid, or other satisfactory financing arrangement has been made with the Township in such amount as is determined for each project by the Township Board and the plumbing to be connected has been fully inspected and approved by the Township, the City of Kalamazoo and the State of Michigan as in compliance with the plumbing codes of both City and Township and statutes of the State of Michigan. Such charges may be changed from time to time by the Township Board to reflect changes in construction costs and to maintain a fairly uniform charge between different current projects and special assessment districts.

The Township reserves the right to install any required service connection or main extension, to sub-contract the same to the City of Kalamazoo or any private licensed contractor, or to permit the owner or owner's contractor to construct the same, provided that in such latter event, an inspection and supervision fee shall be paid by the applicant to the Township.

5. Any contract with an applicant shall contain, in addition to the foregoing, the following:
- (a) A description of the district within which extensions or connections may be made to the system, entitling the applicant to a refund of a portion of his initial project cost.
 - (b) A map disclosing the design of the system and the location of the mains, valves, fittings, and all other accessories thereto which are to be installed.
 - (c) A description of the area, if any, within which no connection charges are to be made by the Township and no refunds are to be made to the applicant.
 - (d) The amount and condition of any performance bond which shall be required in the event the installation is to be made by any one other than the Township or the City of Kalamazoo which shall be 150 percent of the total cost of the installation and shall be conditioned upon the completion of the installation in a proper and workmanlike manner in accordance with the plans and specifications of the Township and City and the furnishing of satisfactory evidence of the fact the project is free of present and future liens of contractors, sub-contractors and material men.
 - (e) The amount and condition of any public liability and property damage insurance which shall be required to insure the Township, the City, and the County of Kalamazoo in the event the installation is to be made by any one other than the Township or the City of Kalamazoo which shall be not less than \$300,000 and \$500,000 respectively.
 - (f) The amount, if any, to be paid the Township for administrative, legal and engineering costs or for the value of the availability of the water or sewer service to which the property of the applicant is to be connected.

Cross reference— Sewage Disposal System Revenue Bond, § 112.010; plumbing code, Pt. 147.

113.004 - Regulations.

Sec. V.

- A. *Sewer and water rates.* No free public sewer or water service shall be allowed and all those properties connected to a public water or sewer system shall be subject to the payment of such water and/or sewer rates and charges as shall be determined by the Township Board, which shall, in no event, be less than 150 percent of similar rates charged within the City of Kalamazoo as set forth in the water and sewer agreements negotiated between the City of Kalamazoo and the Township, and in compliance with the sewer agreements with the City of Portage and the County of Kalamazoo.
- B. *Regulations.* The Township Board by resolution shall adopt and prepare for distribution to interested parties, separate rules and regulations governing the details of application, service connections, extensions, financing of improvements, and rates and charges for both public water and public sewer service and shall have the authority to modify, enlarge, and amend the same from time to time to meet changing conditions and circumstances and to promote the health, safety, and general welfare of the Township.
- C. *Plans and permits.* No public water or sewer main construction shall be commenced until all plans and specifications therefor have been submitted to and approved by the Township and the City of Kalamazoo and all

required state, county and municipal permits have been obtained.

- D. *Preliminary deposit.* All applications for public water or sewer service other than by petition for a special assessment district, requiring preliminary engineering analysis, review, and plans, shall be accompanied by a cash deposit with the Township in such amount as shall be determined by the Township Board to be sufficient to cover the foregoing engineering work necessary to develop preliminary cost estimates for the proposed project.
- E. *Service deposit.* The Township or its authorized agent shall have the right to require an initial deposit from any owner or tenant who applies for water or sewer service, as security for the payment of the rates and charges for such service, and to apply the same against such rates and charges if and when it deems it advisable. Such deposit or portion thereof not applied as aforesaid shall be refunded to the depositor upon the voluntary termination of service by the depositor and his subsequent application for such refund, provided no delinquency then exists.
- F. *Utility board.* The Township Board shall act as a water and sewer utility board for the Township until such time as it wishes to delegate such duties and position to a separate appointed board or commission, with authority in either to decide all questions which might arise in the interpretation, enforcement, and application of the within Ordinance and to grant variances from the requirements thereof where, in its opinion, the health, safety, and general welfare of the Township would not be thereby impaired and the spirit and purposes of the within Ordinance would continue to be served.
- G. *Sewer connection.*
1. *General.* Any premises abutting a public sewer main, requiring sewage disposal service, shall be connected to the abutting sewer system within five years following the installation of said system or at such earlier time as the private sewage disposal system servicing the premises requires replacement, a new tile field, new dry well, or new septic tank. Waste water and sewage disposal facilities in all buildings hereafter constructed shall be connected to the public sewer system if sewer mains are located in the abutting street at the boundaries of the site at the time of construction. New plats and subdivisions shall be developed with public water and/or sewer mains at the time of street construction if public water and/or sewer service is available at or near the boundaries of the plat or subdivision. The Township Board shall have the right to determine whether the service is sufficiently near to require such public service main installation.
 2. *Unreasonable burden of sewage.* In the event any sewage discharged into the system imposes an unreasonable or additional burden upon the sewer system or the public primary or secondary treatment plants treating such sewage above that imposed by the average sewage entering such treatment plants, the Township shall have the option, upon the request of the City, to impose an additional charge for such treatment against such customer to defray the additional cost of such treatment and any damage caused thereby required to be paid the City; to require the customer, upon demand of the City, to pretreat such sewage in such manner as the City may order before the same enters the public system; and to terminate sewer service upon the order of the City to any premises which fails to comply with the foregoing.
- H. *Water service connections.*
1. *General.* Where, in the determination of the Township Board, public water service is reasonably available to a particular building in which water service is required, no new private wells shall be drilled to provide such water supply and such building shall be connected to the public water system, either at the time of construction, when the existing private well, if any, requires redrilling, or at any time, in the determination of the Township Board or the Kalamazoo County Health Department, a health hazard exists or is fairly imminent from the existing water supply. Industrial users may not be required to use exclusively city water where the water is of an industrial use and where there is no health hazard.

2. *Size and installation.* All water service connections from the public transmission main to the required water met less than 1¼ inches in size and shall be installed by the Township or the City of Kalamazoo where public highway are disturbed by the construction and shall be installed at the expense of the property owner, computed to the abutting highway. All such water service connections required by any customer to be in excess of 1¼ inches in s installed and furnished by said City or Township at the full expense of the customer requiring the same.
3. *Under-road connections.* In all residential subdivision developments hereafter commenced or extended where, in the determination of the Township Board, public water service is reasonably available and therefore required, one service connection not less than 1¼ inches in size shall be installed under the abutting right-of-way to the center of each lot or building site fronting on the opposite side of such right-of-way and terminating in the right-of-way, not more than seven feet from the property line.
4. *Use of fire hydrants.* No fire hydrant shall be used for any purpose other than fire protection without the prior approval of the Township and City of Kalamazoo.
5. *Cross connections.* No cross connections between any private water system and the Township water system shall be allowed and no plumbing shall, at any time, be connected to the public system, which is any manner connected or a part of any private system.
6. *Turn-on.* No person other than an authorized employee of the Township or the City of Kalamazoo shall turn on or off any water service to any public or private premises at the curb box connection of said premises to the water main.
7. *Water meters.* All premises connected to a public water or sewer system shall be equipped with a public water meter, so located that all water entering the premises or used on the premises shall pass through such meter and be measured as to volume consumed for periodic computation of water and/or sewer charges. The owners, users or occupants of the premises shall allow the Township or the City of Kalamazoo or their agents and employees to construct, maintain and inspect all parts of the sewer and water system and allow the Township or the City of Kalamazoo, their agents or employees to read the meter.
8. *County Health Department Certificate.* No public water mains shall be made or become operational until the water flowing therefrom has been certified as safe and free of any harmful contamination by the County Health Department and a written certificate attesting thereto is on file with the Township.
- I. *Surplus funds.* Any surplus funds collected from water or sewer service or from capital improvements or extensions thereto shall be deposited into a water and sewer improvement revolving fund of the Township for use in further extending, improving, maintaining, repairing, relocating and/or financing the public water and/or sewer systems of the Township.
- J. *Lien rights.* All delinquent rates and charges for water and/or sewer service shall constitute a lien upon the premises served which shall be subject to foreclosure in the same manner as mechanics' liens for nonpayment, or after six months' delinquency, may be certified to the supervisor and assessing officer of the Township annually, on or before March 1st of each year and entered by him upon the next tax roll against the property served, for collection in the same manner as the collection of taxes.
- K. *Termination of service.* The Township shall have the right to terminate any water or sewer service to any premises within the Township when any delinquency exists with respect to any sewer or water payments due under this Ordinance or otherwise, or where any premises does not comply with all the plumbing codes of the Township and the City of Kalamazoo and with any and all restrictions and limitations on the use of the particular water or sewer service imposed by the Township Board, the contract between the Township and the City of Kalamazoo, the contract between the Township and any applicant, or otherwise.

113.005 - Penalty.

Sec. V. Any violation of the provisions of this Ordinance shall constitute a misdemeanor, punishable by a fine of up to \$500.00 and/or imprisonment in the county jail for up to 90 days. Each day that a violation continues to exist shall constitute a separate offense. The foregoing fines and penalties shall be in addition to the right of termination of public water and/or sewer service to a violator and the right to obtain injunctive relief in a court of law.

113.006 - Saving clause.

Sec. VI. If any section, paragraph, clause or provision of this Ordinance shall be held invalid for any reason, the same shall not affect the validity of any of the other provisions of this Ordinance, which shall remain in full force and effect.

113.007 - Effective date.

Sec. VII. This Ordinance shall take immediate effect. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Part 114

114.000 - SEWAGE DISPOSAL SYSTEM: RATES, USAGE, REGULATIONS, MANDATORY CONNECTION AND ENFORCEMENT Ord. No. 119
Adopted: May 8, 2000

A by-law of the South County Sewer and Water Authority and ordinance of the Townships of Brady, Pavilion, Schoolcraft and the Village of Schoolcraft to regulate and control the construction, installation, extension, service connection and operation of public sewer mains, and public sewer service within said Municipalities under the jurisdiction of the South County Sewer and Water Authority; to regulate discharge into public sewer mains; to provide for service charges for persons utilizing such public sewer system; to provide for penalties for the violation of such ordinance; and to repeal all ordinances or parts in conflict therewith. With respect to Pavilion Township, the ordinance shall apply to the Indian/Pickerel Lakes Sewage Disposal System.

THE TOWNSHIPS OF BRADY, PAVILION, SCHOOLCRAFT, KALAMAZOO COUNTY AND THE VILLAGE OF SCHOOLCRAFT,
KALAMAZOO COUNTY ORDAIN:

SECTION I

A new ordinance is hereby adopted which shall be known as the Sewage Disposal System Ordinance: Rates, Usage, Regulations, Mandatory Connection and Enforcement, as follows:

114.001 - Purpose.

Sec. 1. It is hereby determined to be desirable and necessary for the public health, safety, and welfare of the Municipalities that public sewer service be provided within said Municipalities operated by the South County Sewer and Water Authority by agreement of the parties having established said Authority, pursuant to Act 233 of the Public Acts of Michigan of 1955, as amended, and of existing agreements between the parties and/or pursuant to existing agreements with the City of Kalamazoo for disposal of sewage as to City treatment facilities.

114.002 - Operation.

Sec. 2. Management, operation and maintenance. The management, operation and maintenance of the System shall be under the supervision and control of the South County Sewer and Water Authority. The South County Sewer and Water Authority, in performing all of its duties and obligations hereunder and pursuant to the aforementioned agreement, is acting as agent for the Municipalities. In this regard, the Authority may employ such person or persons in such capacity or capacities as it deems advisable and may make such rules, orders and regulations as it deems advisable and necessary to assure the efficient establishment, maintenance and collection of rates and charges, and to assure the efficient management and operation of the System.

114.003 - Definitions.

Sec. 3. Unless the context specifically indicates otherwise, the meaning for terms used in this ordinance shall be as follows:

- A. *Accessory buildings:* shall mean subordinate related building(s), less than the size of the main building except as to stables, barns, or other agricultural building(s), use of which is incidental to the use of the main building.
- B. *Assessment District:* shall mean those properties included in the 1996 Indian and Pickerel Lake Special Assessment District lying within Brady and Pavilion Townships who connected to the sewer system within 12 months of its original completion date.
- B.[1] *Authority:* shall mean the South County Sewer and Water Authority, acting as agent for the Village of Schoolcraft and for the constituent Townships of Brady, Pavilion and Schoolcraft.
- C. *Available public sanitary sewer system:* shall mean a public sewer which is part of the public sewer system (tapped or untapped) located in a right-of-way, easement, highway, street, or public way and which is extended or will be extended to the edge of the easement right-of-way abutting the property and passes not more than 200 feet at the nearest point from a structure in which sanitary sewage originates.
- D. *Authorized local official:* The Director of the Authority shall be the authorized local official for purposes of issuance of a notice and/or municipal civil infraction under section 13 [114.013] of this Ordinance pursuant to MCL 600.8701 et seq., MSA 27A.8701 et seq.
- E. *Authority Board:* shall mean the governing body of the Authority.
- F. *Board of Appeals:* shall mean the Authority Board acting in the capacity as the Wastewater Board of Appeals.
- G. *BOD biochemical oxygen demand:* shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees centigrade, expressed in milligrams per liter (mg/l).
- H. *Building sewer:* shall mean the extension of the privately-installed pipe from the building to the public sewer or other accepted place of disposal.
- I. *C.O.D. or chemical oxygen demand:* shall mean the oxygen consuming capacity of inorganic and organic matter present in sewage.
- [I.1] *Claimant:* shall be defined as a property owner that believes that a sewage disposal system event caused damage to the owner's property, a physically injured individual who believes that a sewage disposal system event caused the injured individual who believes that a sewage disposal system event caused the physical injury, or a person making a claim on behalf of a property owner or physically injured individual. Claimant includes a person that is subrogated to a claim of a property owner or physically injured individual described in this subdivision.
- J. *Classes of users:* shall mean the division of sanitary sewer customers into classes by similar process or discharge flow characteristics as follows, as required by EPA:
 - 1. *Residential user* - shall mean any individual home or dwelling unit, including accessory building(s), mobile

homes, apartments, condominiums, and multi-family dwelling units, etc., that discharges only segregated domestic waste from sanitary conveniences.

2. *Commercial user* - shall mean any retail or wholesale business engaged in selling merchandise or a service that discharges only segregated domestic waste from sanitary conveniences.
3. *Institutional user* - shall mean any educational, religious or social organization such as a school, church, nursing home, hospital or other institutional user that discharges only segregated domestic waste or wastes from sanitary conveniences.
4. *Governmental user* - shall mean any federal, state or local governmental office or governmental facility that discharges only segregated domestic waste or wastes from sanitary conveniences.
5. *Industrial user* - shall mean any user of the System which is identified in the Standard Industrial Classification Manual, 1972, under Divisions A, B, D, E, or I, excluding those users already identified in one of the other classes. A user may also be excluded from the "Industrial User" class if it is determined that such user will discharge only segregated domestic strength wastes or wastes from sanitary conveniences.

Exhibit A [114.100] shall apply in determining connection charges and user charges of all of these "classes of users".

- K. *Compatible pollutant*: shall mean those pollutants which the wastewater system is or may be designed to produce or remove from wastewater in accordance with the City of Kalamazoo ordinance.
- L. *Connection charge*: shall mean the amount charged at the time, and in the amount hereinafter provided, to each house, building, structure or unit(s) in which sanitary sewage originates per MCLA 333.12751, which connect to the sanitary sewer per this ordinance.
- M. *Cost of replacement*: shall mean expenditures and costs for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the System to maintain the performance for which the System was designed and constructed.
- N. *Debt retirement charges*: shall mean charges imposed as part of the monthly or quarterly user fee for the purpose of paying costs of retiring contracted debt.
- O. *Direct connection*: shall mean the connection of an owner's house, building or structure to a sewer line or lines constructed as part of the original system, or to public lines constructed hereafter.
- [O.1] *Direct connection fee*: shall be defined as the fee charged to each lot, parcel, building site or house, having a building or structure connecting directly to the lines of the system.
- P. *Director*: shall mean the Director of the South County Sewer and Water Authority or his/her authorized representative.
- Q. *First floor service*: Public gravity sewer availability at a depth sufficient to service first floor of existing buildings, those in existence prior to the construction of the sanitary sewer.
- R. *Garbage*: shall mean solid wastes from the domestic and commercial preparation, cooking, dispensing, storage and handling of food, and from the handling, storage and sale of produce.
- S. *Gravity sewer*: shall mean wastewater pipe or conduit so laid that the force of gravity causes wastewater within said conduit to flow.
- T. *Health Department*: shall mean Kalamazoo County Health Department.
- U. *Hydraulic loading; hydraulic impact*: shall mean the effect of new or additional water flows upon a continuing system of transportation and/or treatment.
- V. *Incompatible pollutant*: shall mean any pollutant that is not a compatible pollutant, as defined in [sub]section K above.

- W. *Indirect connection*: shall be defined as a connection of an owner's house, building or structure made to a service stub which is a part of public sewer lines added to the System after its original construction, serving more than one property, the cost(s) of which was paid for from private funds.
- [W.1] *Indirect connection fee*: Shall be defined as the fee charged for each indirect connection or each additional residential equivalent unit allocated to the parcel, lot or building site.
- X. *Industrial or commercial wastes*: shall mean the liquid waste from the place of the user's business, trade or profession.
- Y. *Industrial users*: shall mean users which discharge industrial wastes.
- Z. *Infiltration*: shall mean water other than wastewater that enters the System from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguished from, inflow.
- AA. *Infiltration/Inflow*: shall mean the total quantity of water from both infiltration and inflow without distinguishing the source.
- BB. *Inflow*: shall mean water other than wastewater that enters a sewer system through such sources as, but not limited to, building down spouts, footing or yard drains, cooling water discharges, seepage lines from spring and swampy areas, and storm drain cross connections.
- CC. *Inspection and administration fee (permit fee)*: shall mean the amount charged to each house, building, structure or unit(s) by the Authority at the time an application is made to the Authority for connection to the public sewer system, to cover the routine cost of inspecting and approving the physical connection of a building sewer and service connection to the public sewer system, the issuance of a connection permit and related administrative expenses.
- DD. *Inspector*: shall mean any person or persons authorized by the Authority to inspect and approve the installation of sewers, including the inspection and approval of building sewers.
- EE. *Lateral Main*: shall mean any sewer line of the System to which a service stub connects or may be connected.
- FF. *Mg/l or mg/l*: shall mean parts per million as used in reference to quantitative analysis of water and wastewater (sewage).
- GG. *Michigan Department of Environmental Quality (MDEQ)*: shall mean the Michigan Department of Environmental Quality or any other agency designated by Michigan state law to regulate matters pertaining to the environment.
- HH. *Miscellaneous customer fee*: shall mean the amount charged to users for miscellaneous services and related administrative costs associated with the System.
- II. *Municipality*: shall mean the Township of Brady, Pavilion or Schoolcraft or the Village of Schoolcraft having jurisdiction under this ordinance.
- JJ. *Natural outlet*: shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.
- KK. *New construction*: shall mean any house, building or improvement or any other structure in which sanitary sewage originates, which is constructed after the original public sewer line and which is within 200 feet to an available public sewer to which such house, building, improvement or structure connects.
- LL. *Normal strength sewage*: shall mean a sanitary wastewater flow containing an average daily BOD of not more than 200 mg/l or an average daily suspended solids concentration of not more than 250 mg/l.
- MM. *NPDES permit*: shall mean the permit issued pursuant to the National Pollution Discharge Elimination System for the discharge of wastewater into the waters of the state.

- NN. *Nuisance*: shall mean without limitation, any condition where sewage or the effluent from any sewage disposal facility is exposed to the surface of the ground; or is permitted to drain on or to the surface of the ground or into any natural water body.
- OO. *O, M, & R Charge*: shall mean the charge levied on all users of the System for the cost of operation and maintenance, including replacement and depreciation.
- PP. *Operation and maintenance Costs*: shall mean all costs, direct and indirect, necessary to provide adequate wastewater collection and treatment on a continuing basis, to conform with all federal, state and local wastewater management requirements, and to assure optimum long-term management of the System. Operation and maintenance costs shall include replacement costs.
- QQ. *Owner*: shall mean the person responsible for the property taxes as shown on the current tax roll of the municipality or a tenant or other party who may consent in writing to be responsible for the property.
- RR. *Person*: shall mean any individual, firm, company, association, society, corporation or group.
- SS. *pH*: shall mean the logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.
- TT. *Pressure system; pressure sewer*: shall mean a sewer line in which sewage is transported solely by means of attached pumps and appurtenances.
- UU. *Pretreatment*: The treatment of extra strength industrial wastes in privately-owned pretreatment facilities prior to discharge into the public sewer system.
- VV. *Properly shredded garbage*: shall mean garbage that has been shredded to such a degree that no particle shall be larger than one-eighth inch in any dimension and all particles can be carried freely in the wastewater under the flow conditions normally prevailing in the System.
- WW. *Public sewer*: shall mean a sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.
- XX. *Replacement costs*: shall mean expenditures made during the service life to the System to replace equipment and appurtenances necessary to maintain the intended performance of the System.
- YY. *Revenues, net revenues*: shall be defined as set forth at Section 3, Act 94, Public Acts of Michigan, 1933 as amended.
- ZZ. *Sanitary sewer system*: shall mean a public pipe or system of pipes publicly owned which convey waste waters from residences, commercial buildings, industrial plants, institutions, or other structures as a part of the wastewater collection system.
- [ZZ.1] *Sewage disposal system event*: Shall be defined as the overflow or backup of the sewage disposal system onto real property. An overflow or backup is not a sewage disposal system event if any of the following was a substantial proximate cause of the overflow or backup:
- (i) An obstruction in a service lead that was not caused by a governmental agency.
 - (ii) A connection to the sewage disposal system on the affected property, including, but not limited to, a sump system, building drain, surface drain, gutter, or downspout.
 - (iii) An act of war, whether the war is declared or undeclared, or an act of terrorism.
- AAA. *Sewage treatment facility*: shall mean any arrangement of devices and structures used for treating sewage.
- BBB. *Sewer lead*: shall mean that portion of the service connection which connects to the sewer main located in the public right-of-way and extends therefrom to the property line and includes the tee/wye, the sewer lead, related pumping facilities and appurtenances (but not including the building sewer) which is and shall remain a part of the public sewer under the control of the Local Municipality and/or the Authority.

- CCC. *Shall, may*: "shall" is mandatory; "may" is permissive.
- DDD. *Slug*: shall mean any discharge of sewage or industrial waste which, in concentration of any given constituent, exceeds for any period of duration longer than 15 minutes more than five times the average 24 hours concentration during normal operation.
- EEE. *Storm drain*: (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
- FFF. *Suspended solids*: shall mean solids that either float on the surface of, or in suspension in, water, sewage or other liquids and which can be removed by laboratory filtering.
- GGG. *"System" or "the System"*: shall be understood to mean the complete facilities of the South County Sewer and Water Authority system, including but not limited to such facilities located within the Municipalities, including all treatment facilities, sewers, pumps, lift stations, and all other facilities used or useful in the collection and disposal of domestic, commercial or industrial wastes, including all appurtenances thereto and including all extensions and improvements thereto which may hereafter be made.
- HHH. *Unit or units*: shall mean a standard basis of measuring the relative quantity of sewage, including the benefits derived from the disposal thereof, arising from the occupancy of a freestanding single-family residential dwelling (but such term shall not necessarily be related to actual use arising from any particular dwelling). A listing of the relative relationship between the various users of the system is hereby determined by the Municipality and is set forth in Appendix A [114.100] to this Ordinance. The assignment of unit(s) to a particular User shall be determined from time to time by the Authority, based upon available information, studies and investigation of the use to which the user's property is put. The assignment of unit(s) for any use not enumerated in Appendix A [114.100] shall, in the sole discretion of the Municipality, be based upon the most similar use enumerated in Appendix A [114.100].
- III. *United States Environmental Protection Agency; USEPA*: shall mean the United States Environmental Protection Agency or any other agency designated by the United States Congress to regulate matters pertaining to the environment and which assures the protection of the environment by abating or controlling pollution on a systematic basis.
- JJJ. *User*: shall mean a recipient of services provided by the system including premises which are connected to and discharge sewage into the system.
- KKK. *User fee*: shall mean the monthly charge to owners of any house, building or structure served by the System. User fees consist of O, M & R charges plus any authorized Debt Retirement Charges.
- LLL. *User surcharge*: shall mean a charge imposed on a user of the system for discharges of sewage that are in excess of normal strength sewage.
- MMM. *Wastewater*: shall mean a combination of the water carried wastes from residences, business buildings, institutions and industrial establishments. The two most common types of wastewater are:
1. *Sanitary wastewater* - shall mean the combination of liquid and water carried waste discharged from toilet and other sanitary plumbing facilities.
 2. *Industrial wastewater* - shall mean a combination of liquid and water carried wastes discharged from any industrial establishment and resulting from any trade or process carried on in that establishment (this shall include the wastes from pretreatment facilities and polluted cooling water).
- NNN. *Watercourse*: shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(Ord. No. 131, 7-14-03)

114.004 - Connection.

Sec. 4.

- A. *Permit to connect generally.* Permits for connections to sanitary sewers shall be issued by such person as shall be designated by the Authority. Such a permit shall not be issued until all assessments due and the charge for sewer connections (current portions) have been paid as provided for herein and until the Authority has determined there is capacity available for the wastewater to be discharged in system facilities and the wastewater treatment plant, including capacity for compatible wastes. The Authority may require a compatibility study at the expense of the user to demonstrate to the satisfaction of the Authority that the wastewater to be discharged is compatible with and will not adversely affect the wastewater system.
- B. *Building sewer permits.* There shall be two classes of building sewer permits:
1. Residential permits;
 2. Commercial permits, including industrial, governmental and institutional usage.

In either case, the owner or his agent shall make application on a form furnished by the Authority. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Director and/or the Authority's engineers. The inspection and administration fee shall be determined from time to time by the Authority and adopted by resolution of the Municipality.

- C. *Costs to be borne by owner.* All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner or the person installing the building sewer for said owner shall indemnify the Municipalities and the Authority from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- D. *Separate sewer for every building; exceptions.* A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available nor can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Other exceptions may be allowed only by special permission granted by the Authority. Plumbing fixtures installed in accessory buildings and drains carrying sanitary sewage shall be connected to the public sewer.
- E. *Work of sewer system; permit, bond, insurance required.* No one shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenances thereof, without first obtaining a written permit from the Authority. Before a general license or particular permit may be issued for excavating, plumbing or drain laying connecting to the public sewer system, the person applying for such permit shall execute unto the Authority and deposit with the Authority, a bond with corporate surety in a sum to be determined by the Authority conditioned that he will faithfully perform all work with due care and skill, and in accordance, with the laws, rules and regulations established by the Authority and the Municipalities pertaining to sewers and plumbing. This bond shall state that the permittee will indemnify and save harmless the Authority, the Municipalities and the owners of the property and abutting properties against all damages, costs, expenses, outlays and claims of every nature and kind arising out of mistake or negligence in connection with plumbing, sewer line connection, or excavating for plumbing or sewer connection as prescribed in this ordinance. Such bond shall remain in force and must be executed for a period of one year, except that, upon such expiration, it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. Cash bond shall be held at discretion of the Authority for a minimum of three months. The licensee shall also provide public liability insurance for the protection of the Authority and the Municipalities, the property

owner, and all persons to indemnify them for all damages caused by accidents attributable to the work, with limits of \$100,000.00 for one person, \$300,000.00 for bodily injuries per accident, and \$50,000.00 for property damages.

- F. *Installation and pipe specifications.* The building sewer shall be constructed using methods and types of pipe meeting the written requirements of the Authority at the time of connection.
- G. *Excavations; pipe laying.* Whenever possible, the building sewer shall be brought to the buildings at an elevation below the basement floor. No building sewer shall be laid parallel to, or within three feet of, any bearing wall which might thereby be weakened. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Authority. Pipe laying and backfill shall be performed in accordance with the current Authority engineering specifications except that no backfill shall be placed until the work has been inspected by the Authority inspector and state and local inspectors as otherwise may be required. All excavations for sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Authority and other public bodies having jurisdiction over such matters. The Authority will provide first floor service, wherever economically feasible, at the discretion of the Authority. Should first floor service not be feasible, the Authority may choose to provide a pump unit per Authority or Township specifications.
- H. *Lifting sewage by artificial means.* In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drains shall be lifted by approved artificial means and discharged to the building sewer. Costs for installation and connection shall be borne by the owner.
- I. *Connection to public sewer.* The connection of the building sewer into the public sewer shall be made at the sewer lead designated for the property. Installation and maintenance of the of the sewer lead shall be the duty and responsibility of the Authority; the same being part of the public sewer system as defined herein. Any connection not made at the designated sewer lead in the main sewer shall be made only as authorized by the Authority.
- J. *Inspection.* The applicant for the building sewer shall notify the Authority when the building sewer is ready for inspection and connection to the public sewer.
- K. *Connection allowed only if capacity available.* No connection will be allowed unless there is capacity available in downstream sewers, pump stations, interceptors, forcemains and treatment plant, including capacity for additional BOD and suspended solids loadings. Determinations of such impact are made by the Authority's engineers and subject to approval of the City of Kalamazoo and Michigan Department of Environmental Quality.
- L. *Connections.* At the time of original construction of the public sewer, the Authority shall install that portion of the sewer lead from the public sewer to the lot or easement boundary line whenever possible for any house, building or structure. The Authority shall maintain at its own expense, the public sewer so described. Those persons making connections at the time of original construction of the public sewer shall install at their own expense, that portion of the building sewer from said lot or easement line to said house, building, or property. The owner shall maintain said building sewer at his own expense.
- M. *Connection to sewer; disconnection of private facilities.* At such time as connection shall be made to the public sewer, any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material required by the Michigan Department of Environmental Quality, County Health Department, the Authority or the Municipality.
- N. *Disconnection of service/cancellation of permits.* Applications for connection permits may be cancelled and/or

sewer service disconnected by the Authority for any violation of any rule, regulation or condition of service, including but not limited to any of the following reasons:

1. Misrepresentation in the permit application as to the property or units to be serviced by the Authority.
 2. Unsafe or improper construction methods as determined by the Authority or other regulatory agency.
 3. Failure or refusal to keep building sewers in a suitable state of repair.
 4. Nonpayment of bills or charges.
 5. Violation or attempted violation of any provision of this Ordinance or of any rule or regulation promulgated by the Authority or the Director, or failure to appear at a hearing under this Ordinance when required.
- Whenever reasonably possible, the Authority shall notify the Owner and Municipality in writing 30 days prior to any disconnection of service.

O. *Interceptors.* Grease, oil, sand or other interceptors shall be provided at the owner's expense when, in the opinion of the Authority's engineers, they are necessary for the proper handling of liquid waste containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be properly maintained and operated by the owner and shall be of a type and capacity approved by the Authority's engineers, shall be subject to approval by state or local Plumbing Code inspectors, and shall be located as to be readily and easily accessible for cleaning and inspection. Proof of proper maintenance and operation by the Owner may be required by the Authority.

P. *Extensions of the public sewer (indirect connection).* Sewer extensions to the public sewer require the following:

1. Certified submittal of plans and specifications to the Authority.
2. Written approval of the Authority and/or its Engineer.
3. MDEQ permit to construct.
4. Payment of Authority expenses as related to said sewer extensions.

(Ord. No. 131, 7-14-03)

114.005 - Rates; connection fee; user fee.

Sec. 5.

- A. *Purpose.* The rates fixed herein are estimated to be sufficient to provide for the payment of the expenses of administration and operation, and for such expenses for maintenance of said System as are necessary to preserve the same in good repair and working order; to provide for the payment of the contractual obligations of the units of government served by the South County Sewer and Water Authority to the County of Kalamazoo and/or the City of Kalamazoo; and to provide for such other expenditures and funds for said system as this ordinance may require. Such rates shall be fixed and revised from time to time by Municipalities resolution as may be necessary to produce these amounts.
- B. *User classes.* All users of the System will be included in a user class and each user class will pay for its proportionate share of the use of the System in terms of volume and pollutant loading. User fees are levied to defray the cost of operation, maintenance, replacement (including depreciation), and if authorized, debt retirement of the System. The classes of users, for the purpose of determining the user charges, shall be as defined in this ordinance, section 3 [114.003].
- C. *User fees.* Use fees to each single family residential premise shall be set as a flat amount, the same to be set by Resolution of the municipal board or council and revised from time to time as recommended by the Authority.

The use fee along with any debt retirement charges shall be paid on a not less than quarterly basis. Each user other than a single family residence shall pay the flat fee multiplied by a factor representing a rate of sewer use by such class of users to normal single family residential sewer use as reflected in Appendix A [114.100]. Use fees shall be billed in advance and may include debt retirement charges to be set by Resolution of the municipal board or council and revised from time to time as recommended by the Authority.

- D. *Accrual date.* User charges and debt service charges shall begin to accrue as of the day of the connection of the building sewer to the public sewer system.
- E. *Change in use.* After connection of a premises to the public sewer system, subsequent changes in the character of use or type of occupancy of the premises shall not abate the obligation of the user to pay user fees and debt service charges for the premises based upon the number of units originally allocated thereto, unless and until the Authority determines that the number of units allocated to such premises shall be increased or decreased based upon such changes in use or occupancy.
- F. *Connection fee payments; how computed.* Each house, building or structure required to connect to the system shall pay a direct or indirect connection fee multiplied by a factor representing a ratio of sewer use by such user to normal single-family residential use, as reflected in Exhibit A [114.100].
- G. *Connection charges: direct & indirect fees.*
1. *Generally.* The owner of each lot, parcel or building site who desires to connect to the system shall pay a charge for the privilege of using the facilities and receiving the service of the system as set forth herein. The connection charges will consist of a direct and indirect connection fee (where applicable) as set forth below. The Direct and Indirect Connection Fees shall be set by resolution of the municipal board or council and revised from time to time as may be recommended by the Authority based upon single, family-residential equivalent units as reflected in Exhibit A of this Ordinance. Provided, however, that a credit may be taken on said Direct and Indirect Connection Charges equal to the sum, if any, specially assessed against the property by the municipality for the purpose of defraying part of the cost of the system, providing the credit has not been previously used against other connection charges.
 2. *Direct connection.* Each lot, parcel or building site shall pay a Direct Connection Fee which shall be as a minimum equal to one residential equivalent unit, which shall be used to defray the cost of installing the public sewer to the lot, parcel or building site.
 3. *Indirect connection.* For each lot, parcel or building site containing more than one dwelling or dwelling unit not directly connecting to the public sewer or for commercial and industrial structures requiring capacity exceeding one residential equivalent unit, or those lots, parcels or building sites indirectly connecting to the sewer system, there shall be charged an Indirect Connection Fee based upon the residential equivalent units as set forth in Appendix A. These charges shall be used to defray the proportionate share of the necessary oversizing of the treatment facilities, trunklines and pumping stations.
- H. *Payment of connection charges.* Connection charges as set forth herein shall be due and payable to the Authority in cash upon application for connection to the System, unless the Authority Board authorizes the payment of such charges pursuant to an installment contract. Any installment contract authorized by the Authority Board shall be in writing, shall provide for the first installment to be payable upon application for connection; shall provide for all subsequent installments plus interest to be payable annually thereafter on June 1st shall provide for a rate of interest to be established on a fiscal year basis (April 1 to March 31) by the Authority Board, but not greater than eight percent per annum. Such rate shall be paid annually on the unpaid balance; and shall have a term of not more than ten years, as determined by the Authority Board.

- I. *Industrial users; normal strength sewage.* Each industrial user that discharges process wastewater which does not exceed the limits of "normal strength sewage" shall be charged and shall make payments to the Authority in amounts based on waste volume and strength from such user as stated elsewhere in this ordinance.
- J. *Industrial users to pay proportionate share.* Each industrial user shall pay the proportionate share of the operation, maintenance and replacement/depreciation costs of the system that are allowable to the treatment of said user's industrial wastes.
- K. *Sewage exceeding normal strength.* Each user that proposes to discharge wastewater to the system which exceeds the limits of "normal strength sewage" will be required to either: (a) provide satisfactory pretreatment to reduce the strength of the wastewater to "normal strength sewage", or (b) pay a surcharge determined by the relative concentration of BOD, suspended solids, or other pollutant as compared to "normal strength sewage". Said surcharge shall be set by Resolution of the Municipality from time to time as necessary.
- L. *Special Rates.* For miscellaneous services or where a premise receives sewer service for which a special rate need be established, such rates may be recommended by the Authority to be fixed by the Municipality by resolution.
- M. *Miscellaneous customer fee.* The Municipal Board or Council may, from time to time, establish by resolution and impose on one or more users a miscellaneous customer fee, as necessary, for miscellaneous services, repairs and related administrative costs associated with the system and incurred, without limitation, as a result of the intentional or negligent acts of such user or users, including for example with or without limitation, excessive inspection services not covered by the Inspection and administration fee, and costs incurred by the Municipality to shut off and turn on sewer service.
- N. *Special arrangements for sewage disposal.* No statement contained within this section shall be construed as preventing any contract between the Municipality and the Authority, and any industrial concern whereby an industrial waste of unusual strength and/or character may be accepted by the Authority for treatment, subject to payment therefore by the industrial concern or stipulated to pursuant to judicial or quasi-judicial process.
- O. *Inspection and administration fee.* The inspection and administration fee shall be determined from time to time by resolution of the Municipal Board or Council. The inspection and administration fee shall be payable with respect to each connection to the system, including additional connections on the same lot or parcel of land as a result of the repair or revision of existing connections, new connection to replace an existing connection on the same premises, or the assignment of additional units to a premises as a result of an increased utilization of the premises.
- P. *Delivery of bills.* All bills and notices relating to the conduct of the business of the Authority and of the system will be mailed to the person listed on the application for the connection permit at the address listed on the permit, unless a change of address has been filed in writing at the business office of the Authority. The Authority as agent for the Municipality shall not otherwise be responsible for delivery of any bill or notice. Bills or statements for sewer rates and charges shall be sent quarterly in advance by the Authority to each owner of property liable for payment thereof. Such bills or statements shall be payable 30 days after mailing by the Authority. Payments shall be made at the office of the Authority.
- Q. *Unpaid sewer rates and charges; penalty.* If any charge for sewer rates and charges shall not be paid within 30 days of billing, a penalty of five percent of the amount of such charge shall be added thereto, and shall be payable and collected therewith.
- R. *Enforcement.* The charges for services (use fees and other) which are under the provisions of Section 21, Act 94, Public Acts of Michigan, 1933, as amended, are made a lien on all property served thereby, and whenever any such charge against any piece of property shall be delinquent for six months, the Authority or officials in charge of the collection thereof shall certify annually on August 1 of each year to the tax assessing officer of the

Municipality, the facts of such delinquency, whereupon such charge including penalties shall be by him entered upon the next tax roll as a charge against such property and shall be collected and the lien thereof enforced in the same manner as general Municipal taxes against such property are collected and the lien thereof enforced; provided, however, where notice is given in writing that a tenant is responsible of such charges and service as provided by said Section 21, no further service shall be rendered such property until a cash deposit equal to six months user fees shall have been made as security for payment of such charges and service. In addition to the foregoing, the Municipality and the Authority shall reserve the right to shut off sewer service to any property for which charges are more than three months delinquent, and such service shall not be reestablished until all delinquent charges and penalties and a turn-on charge, to be specified by resolution of the Municipality, have been paid. Further, such charges and penalties may be recovered by the Authority and/or the Municipality by court action, together with such attorney fees and costs as authorized by law.

- S. *Re-establishing service; deposit required.* In addition to the foregoing, where the sewer service supplied to a house, building or structure has been discontinued for nonpayment of delinquent bills, the Municipality reserves the right to require by Resolution that a sum be placed on deposit with the Authority for the purpose of establishing or maintaining any customer's credit.
- T. *Appeals.* Any person has the right to appeal the basis for any charges developed in accordance with section 5 [114.005] of this Ordinance. Appeals shall be directed to the Board of Appeals along with any supporting documentation for amendment of the charges in question. Any additional information that may be required to resolve the appeal shall be obtained by said person at his expense. Resolution of appeals shall be made within 60 days by action of the Board of Appeals. In no event shall appeals be accepted which would require a variance in the methods of charge calculations established and in force throughout the system. All bills for sewage service, outstanding during the appeals process, including all penalties or delinquent charges, shall be due and payable. Upon resolution of the appeal, the Authority shall adjust said charges accordingly, including any refunds due. Refunds shall be retroactive to the previous four quarters billings only.
- U. *No free service.* No free service shall be furnished by said system to any house, building, property, nor to any person, firm or corporation, public or private, nor to any public agency or instrumentality.
- V. *Interruption of service.* The Authority shall make all reasonable efforts to eliminate interruptions of service and, when such interruptions occur, will endeavor to reestablish service with the shortest possible delay. Whenever service is interrupted for the purpose of working on the systems, all persons affected by such interruption will be notified in advance whenever it is reasonably possible to do so.

(Ord. No. 122, 9-11-00; Ord. No. 131, 7-14-03)

114.006 - Revenues.

Sec. 6.

- A. *Depository funds.* The revenues of the system (excluding collections of special assessments for the system) shall be set aside, as collected, and deposited in a separate depository account in a bank duly qualified to do business in Michigan, in an account to be designated Sewer System Receiving Fund (hereinafter, for brevity, referred to as the "Receiving Fund"), and said revenues so deposited shall be transferred from the Receiving Fund periodically in the manner and at the times hereafter specified. Collections of special assessments for the system shall not be deposited in the Receiving Fund or the Operation and Maintenance Fund but shall be deposited in the Contract Payment Fund.

1. *Operation and Maintenance Fund.* Out of the revenues in the Receiving Fund there shall be first set aside

quarterly into a depository account, designated Operation and Maintenance Fund, a sum sufficient to provide for the payment of the next quarter's current expenses of administration and operation of the system and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.

2. *Contract Payment Fund.* There shall next be established and maintained a depository account, to be designated Contract payment Fund, which shall be used solely for the payment of the municipal obligations to the County of Kalamazoo or others pursuant to contracts for payment of bonds issued to finance the costs of system facilities or other Municipal facilities cost. There shall be deposited in said fund the collections of Special Assessments imposed by the Municipalities to defray part of the financed system improvements To the extent necessary to meet contract obligations, connection charges received by the Authority for connections to the system improvements shall be deposited into the contract payment fund. Should the connection charge revenues from connection within the Municipalities, together with the Special Assessment collections of the Municipalities, prove insufficient to pay the Municipalities' contractual obligations when due, such revenues may be supplemented by any other funds of the Municipality legally available for that purpose.
 3. *Replacement Fund.* There shall next be established and maintained a depository account, designated Replacement Fund, which shall be used solely for the purpose of making major repairs and replacements to the system if needed. There shall be set aside into said fund, after provision has been made for the Operation and Maintenance Fund and the Contract Payment Fund, such revenues as the Authority shall deem necessary for this purpose.
 4. *Improvement Fund.* There shall next be established and maintained an Improvement Fund for the purpose of making improvements, extensions and enlargements to the System. There shall be deposited into said fund, after providing for the foregoing funds, such revenues as the Authority shall deem necessary for this purpose.
- B. *Surplus monies.* Monies remaining in the Receiving Fund at the end of any operating year, after full satisfaction of the requirements of the foregoing funds, may, at the option of the Authority, be transferred to the Improvement Fund or used in connection with any other project of the Authority reasonably related to purposes of the system.
- C. *Bank accounts.* All monies belonging to any of the foregoing funds or accounts may be kept in one bank account, in which event the monies shall be allocated on the books and records of the Authority within this single bank account, in the manner above set forth. The South County Sewer and Water Authority, as operating agent for the constituent Municipalities, shall be authorized to act for the Municipalities to establish, maintain and fund the aforesaid accounts. The Authority Board may fix names for the various accounts different from those set out above and may establish such accounts for the common benefit of all public corporations in the service area, so long as the essential purpose of the aforesaid system of accounts is preserved and so long as the Authority maintains a system of accounting which permits it to determine which public corporations' charges have produced monies in its various accounts.
- D. *Transfer of funds.* In the event that monies in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund, any monies and/or securities in other funds of the system, except sums in the Contract Payment Fund derived from special assessments, shall be transferred to the Operation and Maintenance Fund, to the extent of any deficit therein.
- E. *Monies may be invested.* Monies in any fund or account established by the provisions of this ordinance may be invested in obligations of the United States of America in the manner and subject to the limitations provided in

Act 94, Public Acts of Michigan, 1993, as amended. In the event such investments are made, the securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds from which such purchase was made. Income received from such investments shall be credited to the fund from which said investments were made.

- F. *Operating year.* The system shall operate on the basis of an operating year commencing on April 1 and ending on the last day of March next year following.

114.007 - Hardship application.

Sec. 7.

- A. *Basis for application.* The owner or owners of a single-family residence in which residence said owner or owners reside and upon which a connection charge has been imposed, may submit a hardship application to the Municipal Board or Council seeking a deferment in the partial or total payment of the connection fee provided for herein, based upon a showing of financial hardship, subject to and in accordance with the following:
1. The owners of the premises shall, under oath, complete a hardship application provided by the Authority and file said application, together with all other information and documentation reasonably required by the Authority, with the Board or Council not less than 60 days prior to the due date of the annual installment of such charge. Any such deferment shall be for the current annual installment only. An application shall be completed and filed by each and every legal and equitable interest holder in the premises, excepting financial institutions having security interests in the premises.
 2. Hardship applications shall be reviewed by the Municipal Board or Council and, after due deliberation of hardship applications, the Municipal Board or Council shall determine, in each case, whether there has been an adequate showing of financial hardship and shall forthwith notify the applicants of said determination.
 3. An applicant aggrieved by the determination of the Municipal Board or Council may request the opportunity to appear before the Municipal Board or Council in person for the purpose of showing hardship and presenting any argument or additional evidence. A denial of hardship following such a personal appearance before the Municipal board or council shall be final and conclusive.
 4. In the event that the Municipal Board or Council makes a finding of hardship, the Municipal Board or Council shall fix the amount of partial or total deferment. The remaining charge, if any, shall be paid to the Authority together with an amount equal to the deferment by the Municipality granting the deferment. The Municipality shall require an annual filing of financial status by each applicant, providing that upon a material change of financial status of an applicant, said applicant shall immediately notify the Municipal Clerk so that a further review of the matter may be made by the Municipal Board or Council, and provided further that the duration of the deferment granted shall be self-terminating upon the occurrence of any one of the following events:
 - a) A change in the financial status of any applicant which removes the basis for financial hardship;
 - b) A conveyance of any interest in the premises by any of the applicants, including execution of a new security interest in the premises or extension thereof;
 - c) a death of any of the applicants.
 5. Upon a determination of the Municipal Board or Council deferring all or part of the charges imposed, the owners of the premises shall, within one month after such determination, execute and deliver to the Municipality as the secured party a recordable security instrument covering the premises, and such other

documents deemed necessary to secure the payment guaranteeing payment of an amount necessary to cover all fees and charges deferred and all costs of installation and connection, if applicable, the consideration for said security interest being the grant of deferment pursuant to this Ordinance.

114.008 - Other conditions of disposal.

Sec. 8.

- A. *Septic tank unlawful; exceptions.* Except for facilities approved by the County Health Department, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for disposal of wastewater within the Municipality after the effective date of this Ordinance.
- B. *Depositing sewage upon property; unlawful.* It shall be unlawful for any person to place, deposit or permit to be deposited, in an unsanitary manner, upon public or private property within the Municipality, or in any area under the jurisdiction of the Municipality, any human or animal excrement, garbage, or objectionable waste.
- C. *Discharging untreated sewage; unlawful.* It shall be unlawful to discharge to any natural outlet within the Municipality, or in any area under the jurisdiction of the Municipality, any wastewater, or other polluted waters, except where suitable treatment has been provided in accordance with all applicable provisions of local, state and federal regulatory agencies.
- D. *Discharge of unpolluted drainage to system; unlawful.* No person shall discharge, or cause to be discharged, any storm water, surface water, ground water, roof run-off, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters into any sanitary sewer of the system.
- E. *Private system; regulations.* The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Municipality or Authority.
- F. *Additional requirements.* No statement contained herein shall be construed to interfere with any additional requirements that may be imposed by the State of Michigan or the United States.
- G. *Old building sewers.* Old building sewers or portions thereof may be used in connection with new buildings only when they are found, on examination and test by the Authority, to meet all requirements of this Ordinance and other applicable building codes.
- H. *Prohibited discharging.* No person shall convey, deposit or cause or allow to be discharged, conveyed, or deposited into the wastewater system any pollutant other than a compatible pollutant which the Authority expressly agrees to accept from a user or any wastewater containing any of the following:
1. BOD in excess of 250 mg/l.
 2. COD in excess of 450 mg/l.
 3. Chlorine demand in excess of one mg/l.
 4. Any garbage which is not properly shredded (no particle size greater than one-eighth inch).
 5. Grease, oils, wax or fats, whether emulsified or not, in excess of 50 mg/l or any other substances that may solidify or become viscous at temperatures between 32° and 150°F at the point of discharge into the wastewater system, or concentrations or amounts of oil or grease from industrial facilities violating pretreatment standards.
 6. Substances which tend to settle out in the system, causing stoppage or obstruction to flow.
 7. Liquids which are corrosive.
 8. Any pollutant which imparts a color to the wastewater in the wastewater system, which color cannot be removed by the City of Kalamazoo's treatment process or which is prohibited by the NPDES permit issued by

MDEQ.

9. Liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion. Such prohibited materials include, but are not limited to, fuel oil, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, and carbides.
 10. Any substance harmful to the system.
 11. Any live animals or fish.
 12. Radioactive wastes or isotopes unless their disposal via wastewater is authorized by federal, state and local regulations, and then only when discharge into the wastewater system does not cause damage or a hazard to the system, the persons operating the system, or the general public, or concentration which may exceed limits established by applicable state and federal regulations.
 13. Wastes of a temperature less than 37.4°F or greater than 149°F.
 14. Solids, liquids or gases from processes employed in the user's business, trade or profession which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into a sewer for maintenance or repair.
 15. Any toxic substances in amounts which cannot be handled by the system or which exceed standards promulgated by the USEPA pursuant to Section 307(b) of the Federal Water Pollution Control Act, or toxic substances included in any regulations of the MDNR which identify and prohibit discharge of toxic substances into the water of the state.
 16. Any pollutant which deleteriously affects the wastewater system or process, or any pollutant which is regulated by the NPDES permit issued to the City of Kalamazoo and which will pass untreated or unaffected by the treatment system.
 17. Solids or viscous substances in quantities or of such size capable of causing obstruction to the flow of sewers, or other interference with the proper operation of the wastewater system such as, but not limited to ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair, fleshing or entrails.
- i. *Limitations on Wastewater Discharging.* If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in the preceding subsection H, and which in the judgment of the Director may deleteriously affect the wastewater system or carry through the system untreated any pollutant regulated by the NPDES permit issued to the City of Kalamazoo; or constitute a hazard to human or animal life or to any water course receiving the treated effluent of the wastewater system; or violate any pretreatment standards hereinafter established; or cause the wastewater system to violate its NPDES permit or other applicable receiving water standards, the Director may:
1. Reject the wastes and/or refuse to accept the waters or wastes into the system,
 2. Require pretreatment to an acceptable condition for discharge into the public sewers,
 3. Require control over the quantities and rates of discharge and/or,
 4. Require payment to cover added cost of handling and treating the wastes not covered by existing sewer use charges.

If the Authority permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Authority and subject to the requirements of all applicable codes, ordinances and laws. The property owner shall not commence construction of such facility until he has obtained such approvals in writing from the Director and appropriate state agencies.

- J. *Preliminary treatment facilities.* Where preliminary treatment of flow equalizing facilities are provided for any water wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his own expense.
- K. *Control manholes.* When required by the Authority, the owner(s) of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole upstream from the connection to the public sewer system. The control manhole shall be accessible to the Authority, its agents, the Municipality and other regulatory agencies. The purpose of this control manhole shall be to enable observation, sampling and measurements of the industrial wastes. The control manhole shall be at the property line or in a location approved by the Authority, shall be easily accessible, and shall be constructed in accordance with plans and specifications approved by the Authority and the Authority engineer. Installation of the control manhole, sampling equipment and other appurtenances required by the Authority shall be at the expense of the property owner. The owner shall operate, maintain, repair and replace the control manhole and appurtenances in a safe, accessible and operable manner at all times at the owner's expense.
- L. *Grease, oil and sand interceptors.* Grease, oil and sand interceptors shall be installed, operated, maintained, repaired and replaced by the individual user and at no cost to the other users of the system when determined by the Authority to be necessary for the proper handling of sewage containing ingredients described in subsection H of this section. All interceptors shall be:
1. Of the type and capacity prescribed by the Authority,
 2. Located so as to be readily and easily accessible for cleaning and inspection,
 3. Constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature, and
 4. Of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gas-tight and water-tight.
- M. *Sampling; water analyses.* All measurements, tests, analyses of the characteristics of water and wastes to which reference is made in this Ordinance shall be determined in accordance with the most recent edition of "Standard Methods of the Examination of Water and Wastewater" and shall be determined upon samples taken from the control manhole or other necessary locations. Samples shall be carried out by customarily-accepted methods to reflect the effect of constituents upon the system and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is necessary and appropriate, or whether a grab sample or samples shall be taken. These determinations shall be made by the Authority.
- N. *Commercial waste hauling; regulation.* Commercial waste hauling vehicles, including septic waste hauling vehicles, may not discharge contents into the public sewer system except as authorized in writing by the Authority Board.
- [O. *Reserved.*]
- P. *Inspection.* Agents of the Authority, Municipality, Michigan Department of Environmental Quality, the U.S. Environmental Protection Agency and other related local, state and federal agencies shall have the right to enter all properties for the purpose of inspecting, measuring, metering, sampling and testing the wastewater discharge and for reviewing and examining procedures related to the discharge of waste or wastes. Included herein shall be the right to meter the water supply to determine the approximate use of the sewage system by any user, such metering to be in the discretion of and at the cost of the Authority.
- Q. *City of Kalamazoo Standards.* Notwithstanding anything in this ordinance, all users shall comply with standards of the City of Kalamazoo concerning wastewater disposal and use of the System, and the Authority is authorized

to implement said standards by published rules and regulations from time to time.

114.009 - Industrial waste treatment.

Sec. 9.

- A. *Discharging industrial wastes; requirement.* Any industry or structure discharging industrial wastes to the sanitary sewer, storm sewer or receiving stream shall file the material listed below with the Authority, and the Authority may also require each person who applies for sewer service, receives sewer service, or through the nature of the enterprise creates a potential environmental problem as determined by the Authority's engineers, to file the documents listed below:
1. A written statement setting forth the nature of the enterprise, the source and amount of water used, and the amount of waste discharged, both total and partial, with the present or expected bacterial, physical, chemical, radioactive or other pertinent characteristics of the wastes.
 2. A plan map of the building, works or complex, with each outfall of the surface waters, sanitary sewer, storm sewer, natural watercourse, and/or groundwater noted, described and the waste stream identified.
 3. Sample, test and file reports with the Authority and the appropriate local and state agencies on appropriate characteristics of waste on a schedule, at locations, and according to methods outlined in this ordinance.
 4. An affidavit placing waste treatment facilities, process facilitates, waste streams, or other potential waste problems under the specific supervision and control of persons who have been certified by an appropriate state agency as properly qualified to supervise such facilities.
 5. A report on raw materials entering the process or support system, intermediate materials, final product, and waste by-products, as those factors may affect waste control.
 6. Record and file reports on the final disposal of specific liquid, solids, sludge, oil and radioactive material, solvent or other waste.
 7. If any industrial process is to be altered so as to include or negate a process waste or potential waste, written notification shall be given to the Authority subject to approval.
- B. *Industrial representative; duties.* One person from each industrial user shall be designated by the user (subject to approval by the Authority) to be responsible for industrial wastes admitted to the System. He shall be involved with maintaining any pretreatment facility operations and assuring a continual high level of performance. In case no pretreatment is provided, he shall be involved with prevention of accidental discharges of process wastes admitted to the System. He must become aware of all potential and routine toxic wastes generated by his industry. He must be informed of all process alterations which could, in any manner increase or decrease normal daily flow or waste strength discharged to the System.
- C. *Catalog of chemicals; discharges.* The industrial representative shall catalogue all chemicals stored, used or manufactured by his industry. Such a listing shall include specific chemical names, not manufacturer's codes. These wastes admitted to the sanitary sewer are a prime concern; however, all discharges shall be catalogued. An estimate of daily average flows and strengths shall be made including process, cooling, sanitary, etc. Such a determination should separate the flows according to appropriate categories. The aforementioned flow and chemical listing is to be sent to the Director and shall be treated as confidential information.
- D. *Process alterations.* The industrial representative should attempt to determine whether or not large process alterations will occur in the future, one year, two years, five years. He should consult with management to determine if such alterations are scheduled and forthcoming in order to inform the Authority of same.
- E. *Plant layout sketch.* A sketch of the plant buildings shall be made, including a diagram of process and chemical

storage areas. Location of any pretreatment equipment must be indicated, and floor drains located near process and storage areas must be noted. Manhole and sewer locations at the industry's point of discharge into the municipal collection system must be included on the plant layout sketch.

- F. *Pretreatment.* There shall be separation of spent concentrates from the sanitary sewer to prevent toxic wastes from upsetting the treatment plant. Supervision and operation of the pretreatment equipment for spent concentrates, as well as all toxic wastes and high strength organic wastes to an acceptable level as detailed herein, is the responsibility of the industrial representative. All sludge generated by such treatment must be handled in an acceptable manner, such as in a designated area of a sanitary landfill or by a licensed waste hauler. Adequate segregation of those waters and wastes to be pretreated to meet discharge limits is a vital portion of the industrial effort to prevent operational problems of the System.
- G. *Secondary containment.* Throughout the industry, adequate secondary containment or curbing must be provided to protect all floor drains from accidental spills and discharges to the receiving sewers. Such curbing should be sufficient to hold 150 percent of the total process area tank volume. All floor drains found within the containment area must be plugged and sealed. Spill troughs or sumps within process areas must discharge to appropriate pretreatment tanks. Secondary containment should be provided for storage tanks which may be serviced by commercial haulers and for chemical storage areas.
- H. *Sampling.* An adequate sampling vault or manhole must be provided in a fully accessible place for Authority personnel to obtain samples and flow measurement data. The complexity of the vault will vary with the sampling requirements the Authority determines necessary to protect the treatment plant and receiving streams. Should the Authority desire continual flow recording over a long duration, or 24-hour composite sampling, then a more complex manhole would be mandatory, complete with 110 volt AC.
- I. *Costs; surveillance fee, surcharge.* A yearly surveillance fee may be imposed by the Authority or Municipality from time to time to recover a portion of equipment costs or for maintenance of monitoring devices. If a graduated surcharge is deemed necessary to check industrial discharges, then a factor may be incorporated to reduce the costs as industry lowers its waste strength. Consequently, a direct dollar incentive would be given to stimulate continued progress in industrial waste control. A graduated surcharge may not be required if industry provides adequate safeguard devices and treatment facilities to insure protection of the municipal treatment plant and biological processes involved.
- J. *Unpolluted drainage where discharge allowed.* Storm sewer and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the appropriate state agency. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the appropriate state agency, to a storm sewer or natural outlet.
- K. *Industrial cooling water containing pollutants.* Industrial cooling water containing such pollutants as insoluble oils or grease or other suspended solids shall be treated for removal of the pollutants and then discharged to the storm sewer.
- L. *Pretreatment facilities.* All major contributing industrial users shall pretreat any pollutant in its wastewater which may interfere with, pass through untreated, reduce the utility of municipal sludge or otherwise be incompatible with the treatment works. Pretreatment of such pollutants shall be in accordance with Section 307 of Public Law 92-500, 40 CFR 403, and as determined by the Director. All owners of and source to which pretreatment standards apply shall be in compliance within the shortest reasonable time, but not later than the date of compliance required by 40 CFR 403 or the date established by the director, whichever first occurs. All such owners shall submit to the director semi-annual notices (on April 1 and October 1 each year) regarding specific actions taken to comply with such standards.

114.010 - Protection from damage.

Sec. 10.

- A. *Damaging system; prohibited.* No person or persons shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a party of the system.
- B. *Interruption of service.* The Authority or Municipality shall in no event be held responsible for claims made against it by reason of the breaking of any mains or service laterals, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any option of a payment refunded for any interruption.
- C. *Overflow or backup.*
1. *Liability.* Pursuant to Public Act 170 of 1964, and as thereafter amended, neither the Authority nor the Municipality shall be subject to non-economic damages caused by a sewage disposal system event unless the individual making the claim has suffered death, serious impairment of bodily function or permanent or serious disfigurement. Neither the Authority nor the Municipality shall be responsible for economic damages unless claimant can show that a sewage disposal system event caused property damage or physical injury and the claimant can show:
 - a) The Authority and/or the Municipality are the appropriate governmental agency(s);
 - b) The sewage disposal system had a defect;
 - c) The governmental agency knew or in the exercise of reasonable diligence should have known about the defect;
 - d) The governmental agency having the legal authority to do so, failed to take reasonable steps in a reasonable amount of time to repair, correct or remedy the defect;
 - e) The defect was a substantial proximate cause of the property damage and/or physical injury;
 - f) The Claimant must also show ownership, value of the property, and comply with Section 19 of Act 170 of 1964 as amended by Public Act 9 of 2001 and Public Act 222 of 2002.
 2. *Notice.* The Authority or the Municipality shall be notified in writing not more than 45 days after the discovery of any damage or physical injury which the property owner believes is attributable to overflow or backup of the sewer system. The notice must contain the following:
 - a) Claimant's name;
 - b) Address;
 - c) Telephone number;
 - d) Address of the affected property;
 - e) The date of discovery of any property damage or physical injuries with a brief description of the claim.
 - f) The notice must be sent to the South County Sewer and Water Authority and to the respective governmental unit in which Claimant lives.
 3. *Inspection.* The Authority or Municipality, upon receipt of the notice of claim, may inspect the damaged property or investigate the physical injury and the claimant or owner or occupant of the affected property shall not unreasonably refuse to allow such inspection.
 4. *Settlement.* If the Authority or Municipality against which a claim is made cannot reach an Agreement for compensation for the property damage or physical injury within 45 days after the receipt of the notice, the

claimant may institute a civil action to recover a claim of damages.

5. *Legal authority.* The protection and damage provisions provided for in this Section have been instituted pursuant to Public Act 19 of 2001 and Public Act 222 of 2002, which amended Public Act 170 of 1964.

(Ord. No. 131, 7-14-03)

114.011 - Inspections.

Sec. 11.

- A. *Inspection.* Any house, building or structure receiving sanitary sewer service shall, at all reasonable hours, be subject to inspection by duly authorized personnel of the Authority.
- B. *Authority of inspectors; limitations.* The director and other duly authorized employees of the Municipality or Authority, bearing proper credentials and identification, shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Ordinance. The Director or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers and waterways or facilities for waste treatment.

114.012 - Connection to system.

Sec. 12. It is hereby determined and declared that public sanitary sewers are essential to the health, safety and welfare of the people of the Municipalities and that all premises on which structures in which sanitary sewage originates or are situated shall connect to the system at the earliest reasonable date as a matter for the protection of the public health, safety and welfare of the Municipalities. Those premises within 200 feet of the available sewer system shall connect as follows:

- A. Those within the Assessment District shall connect to the system within 12 months of its availability as noticed by first class mail from the Authority.
- B. Structures or premises emitting sewage prior to sewer services becoming available and outside the Assessment District shall connect upon septic system failure or may connect at any time after the date of notice of such availability by the appropriate Municipality official or its agent, and having completed a sewer connection contract with the Municipality or its agent.
- C. Structures or premises within 200 feet which began emitting sewage after a public sewer line was constructed shall connect prior to emitting sewage.
- D. All new construction lying within 200 feet of the system must connect prior to occupancy.
- E. *Connection deadline.* As a matter of public health, all connections to the public sewer system required hereunder shall be completed no later than 360 days after the last to occur of the date of official notice by the Municipality to make said connections or the modification of a structure so as to become a structure in which sanitary sewage originates. Newly constructed structures required to connect shall be connected prior to occupancy thereof. Persons who fail to complete a required connection to the public sewer system within such 360-day period shall be liable for a civil penalty in an amount equal to the user fees and debt service fees that would have accrued and been payable had the connection been made as required, in addition to the penalties provided in this Ordinance. Existing structures as of July 1, 2000 with available public sewer, outside special assessment district, connect upon failure.

Said notification and enforcement of this section shall be in conformity with Act 288 of the Public Acts of Michigan of 1972, as amended.

114.013 - Violations and penalties.

Sec. 13.

- A. *Violations/damage.* Any person violating any provision of this Ordinance and failing to operate in compliance therewith or maliciously, wilfully or negligently breaking, damaging, destroying, uncovering, defacing, tampering with, climbing upon or entering into any structure, appurtenance or equipment of the public sewer system shall be responsible for Municipal civil infraction.
- B. *Notice to cease and desist.* Except for violations resulting in the direct and immediate damage to structures, equipment or appurtenances of the public sewer system, shall be served by the Authority through its Director with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations as determined by the Authority. However, proceedings to enforce this Ordinance may be commenced without such written notice.
- C. *Civil infractions.* A person, firm or corporation or other entity who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Ordinance shall be responsible for municipal civil infraction and shall pay a fine according to the following schedule:

| | |
|---------------------------------------|----------|
| First offense | \$75.00 |
| Second offense within first 12 months | \$150.00 |
| Third offense within one-year period | \$325.00 |
| Fourth offense within one-year period | \$500.00 |

If a determination of responsibility is made by the court, the court may impose costs as provided for by law in addition to the fines called for above.

The foregoing penalties shall not prohibit the Municipalities from seeking injunctive relief against a violator or such other appropriate relief as may be provided for by law.

Every day that a violation is permitted to exist shall constitute a separate offense. The imposition of any fines shall not exempt the offender from compliance with the provisions of this Ordinance.

D. *Nuisance abatement.* Any nuisance or any violation of this Ordinance is deemed to be a nuisance per se. The Authority, in the name of the Municipalities and in the furtherance of public health, may enforce the requirements of this Ordinance by injunction or other remedy and is hereby empowered to make all necessary repairs or take other corrective action necessitated by such nuisance or violation. Persons who violated the Ordinance or permitted such nuisance or violation to occur shall be responsible to the Authority and/or the Municipality for the costs and expenses incurred in making such repairs and taking such action.

E. *Liability for penalties levied against the municipality authority.* Any business, industry or person violating any of the provisions of this Ordinance which results in fines or penalties being levied against the Municipality or Authority shall become liable for said fine or penalty plus any expenses, loss or damage occasioned by such

violation. This fine or penalty shall be levied in addition to any fines levied under subsection C above.

- F. *Cumulative remedies.* The remedies provided by this Ordinance shall be deemed to be cumulative and not mutually exclusive.

114.014 - Administrative appeals; Board of Appeals.

Sec. 14.

- A. *Board of Appeals.* In order that the provisions of this Ordinance may be reasonably applied and substantial justice done in instances where unnecessary hardship would result from carrying out the strict letter of this Ordinance, the Board of Appeals shall consider appeals from the decision of the Director concerning the Authority collection system and determine, in particular cases, whether any deviation from strict enforcement will violate the intent of the Ordinance or jeopardize the public health or safety.
- B. *Appeals.* Appeals from the written decisions of the Director with respect to matters concerning the Municipal collection system may be made to the Board of Appeals, within 30 days from the date of such decision. Such appeal may be taken by any person aggrieved. The appellant shall file a written Notice of Appeal with the Board of Appeals, specifying the ground therefor. The Board of Appeals may, at its discretion, call upon the Director to explain the action. The final disposition of the appeal shall be in the form of a resolution, either reserving, modifying or affirming, in whole or in part, the appealed decision, determination or directive of the Director. In order to find for the appellant, a majority of the Board of Appeals must concur. The Board of Appeals shall fix a reasonable time for the hearing of the appeal, give due notice thereof to interested parties, and decide the same within a reasonable time. Within the limits of its jurisdiction, the Board of Appeals may reverse or affirm, in whole or in part, or may make such other requirements, decisions or determination as, in the Board's opinion, ought to be made in the case under consideration. Subject to subsection E, the decision of the Board of Appeals shall be final.
- C. *Effect of administrative action.* If a hearing is not demanded within the period specified herein, such administrative action shall be deemed final. In the event a hearing is demanded, any action subject to appeal shall be suspended until a final determination has been made, except in the case of an immediate cease and desist order issued pursuant to this Ordinance.
- D. *Appeal from Board of Appeals.* Appeals from the determination may be made to the Circuit Court for the County of Kalamazoo within 21 days as provided by law.

114.015 - Validity, severability, effective date, publication.

Sec. 15.

- A. *Previous ordinances superseded.* This ordinance supersedes all other ordinances and amendments pertaining hereto. Ordinances and amendments in conflict herewith or portions thereof are hereby repealed.
- B. *Severability.* If any section, clause, sentence or provision of this Ordinance is determined to be invalid, said invalidity shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.
- C. *Publication.* This Ordinance, or summary thereof, shall be published once in a newspaper of general circulation within the boundaries of the Municipality within the time required by state statute.
- D. *Effective Date.* This Ordinance shall become effective 60 days after its publication.

114.100 - Residential Equivalent Factors*

| | Occupation Use | Units | Unit Factor |
|-----|--|-------|--|
| 1. | Single Family Residence | 1.0 | per residence |
| 2. | Auto Dealers New and/or Used | 1.0 | per premise plus 0.25 per 1,000 sq. ft. of building incl. service area |
| 3. | Auto Repair/Collision | 1.0 | same as above |
| 4. | Auto Wash (coin-operated do-it-yourself, 10 gallons or less per car) | 1.0 | per stall |
| 5. | Auto Wash (mechanical over 10 gallons per car-not recycled) | 10.0 | per stall or production line including approach and drying area |
| 6. | Auto Wash (mechanical over 10 gallons per car recycled) | 5.0 | per stall or production line including approach and drying area |
| 7. | Barber Shop | 1.0 | per shop plus 0.1 per chair after 2 |
| 8. | Bar | 4.0 | per 1,000 sq. ft. |
| 9. | Beauty Shops | 1.0 | per shop plus 0.1 per booth |
| 10. | Bowling Alleys (no bar) | 1.0 | per premise plus 0.2 per alley |
| 11. | Campground Facilities Recreational vehicles, tents, trailers under 12 feet | 0.35 | per pad or site plus picnic facilities |
| 12. | Campground Facilities Trailer parks or trailers in excess of 12 feet | 0.50 | per pad or site plus picnic facilities |
| 13. | Churches | 0.25 | per 1,000 sq. ft. minimum - 1 unit |
| 14. | Cleaners (pick-up only) | 1.0 | per shop |
| 15. | Cleaners (cleaning and pressing facilities) | 1.0 | per premise plus 0.5 per 500 sq. ft. |
| 16. | Clinics (medical or dental) | 1.0 | per premise plus 0.5 per exam room |
| 17. | Convalescent or Boarding Homes | 1.0 | per premise plus 0.25 per bedroom |
| 18. | Convents | 1.0 | per premise plus 0.25 per bedroom |
| 19. | Country Clubs and Athletic Clubs | 1.5 | per 1,000 sq. ft. of clubhouse plus restaurant, bar and pro shop as retail store |
| 20. | Convenience Store | 1.5 | per premise plus 0.8 per 1000 sq. ft. |
| 21. | Day Care (Commercial) | 1.0 | per facility and 0.5 for every ten children in excess of 20 |
| 22. | Drug Stores | 1.0 | per premise plus snack bar |
| 23. | Factories (office and production) Wet Process | 0.75 | per 1,000 sq. ft. based on metered sewage flow |
| 24. | Funeral Home | 1.5 | per 1,000 sq. ft. plus residence to be computed separately |
| 25. | Grocery Stores and Supermarket | 1.0 | per premise plus 0.8 per 1,000 sq. ft. |

| | | | |
|-----|--|------|---|
| 26. | Hospitals | 1.1 | per bed |
| 27. | Hotels and Motels | 0.40 | per bedroom plus restaurant and bar |
| 28. | Laundry (self-serve) | 1.0 | per premise plus 0.5 per washer |
| 29. | Marinas per boat docking space | .06 | per space under 25 ft. in length |
| | | .1 | per space over 25 ft. in length |
| 30. | Two-family Residential | 1.0 | per unit |
| 31. | Mobile Homes (free-standing) | 1.0 | per unit |
| 32. | Mobile Homes (park or subdivision) | 0.75 | per pad or site plus laundry, community buildings and office to be computed separately per schedule |
| 33. | Multiple Family Residence Duplex, Row Houses or Townhouses | 1.0 | |
| 34. | Apartment Residence unit including laundry facilities in apartment | 1.0 | plus |
| | | .8 | for each dwelling unit in excess of 1 |
| 35. | Apartment Residence unit not having laundry facilities in apartment | 1.0 | plus |
| | | .6 | for each dwelling unit in excess of 1 |
| 36. | Fraternity, Sorority Houses; Dormitories | 1.0 | plus |
| | | .6 | for each 2 residents in excess of 4 |
| 37. | Parks, Recreation Facilities, Campgrounds, Picnic Facilities— No bathing or overnight accommodations | 0.2 | per parking space |
| 38. | Picnic Facilities with bathing facilities or swimming pool | 0.35 | per parking space |
| 39. | Post Office | 1.0 | per 1,000 sq. ft. |
| 40. | Professional Office | 0.25 | per 500 sq. ft. - minimum 1 |
| 41. | Public Institutions | 0.75 | per 1,000 sq. ft. |
| 42. | Restaurants (meals only) | 2.5 | per 1,000 sq. ft. excluding restrooms, public areas not in regular use and unfinished areas |
| 43. | Restaurants (meals and drinks) | 3.5 | per 1,000 sq. ft. excluding restrooms, public areas not in regular use and unfinished areas |
| 44. | Restaurants (public areas, auxiliary dining rooms, dance floors or ballrooms which are not in regular use) | 0.5 | per 1,000 sq. ft. |
| 45. | Retail Store (other than listed) | 1.0 | per premise plus 0.1 per 1,000 sq. ft. |
| 46. | Schools | 0.6 | per classroom |
| 47. | Service Stations | 1.5 | per 1,000 sq. ft. of building area |

| | | | |
|-----|---------------------------------|------|-------------------|
| 48. | Snack Bars, Drive-Ins, etc. | 2.5 | per 1,000 sq. ft. |
| 49. | Theaters (drive-in) | 0.04 | per car space |
| 50. | Theaters | 0.04 | per seat |
| 51. | Warehouse and storage | 0.2 | per 1,000 sq. ft. |
| 52. | Veterinary facility | 1.5 | per facility |
| 53. | Veterinary facility with kennel | 1.5 | per facility plus |
| | | 0.5 | per 5 kennels |

*The Authority, in its sole discretion, may permit or require any user of the system, other than residential users, to install a water meter on the influent plumbing to measure water use and to determine Residence Equivalent Factors at 200 gallons per unit as comparative to sewage discharge. In this event, the meter reading shall be averaged for at least a three-month period, as determined by the Authority and then divided by the number of days metered, which resulting amount shall be divided by 200 gallons per day, per unit. The metering of the water or sewage flow for this purpose shall be accomplished by a meter approved by the Authority and all installation, repairs and maintenance expense shall be the responsibility of the owner, including removal at a later date.

(Ord. No. 131, 7-14-03)

Part 116

116.000 - CEMETERY ORDINANCE Ord. No. 103

THE TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN, ORDAINS AS FOLLOWS:

116.001 - Title.

Sec. I. This Ordinance shall be known and cited as the Pavilion Township Cemetery Ordinance.

116.002 - Preamble; purpose.

Sec. II. 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 Pavilion, Kalamazoo County, Michigan; to provide penalties for violation of said Ordinance; and to repeal all ordinances or parts of ordinances in conflict therewith.

116.003 - Authority.

Sec. III. This Ordinance and the cemetery regulations are adopted pursuant to: 1895 PA 49; 1871 PA 164; 1929 PA 297; 1931 PA 46; 1905 PA 22; 1915 PA 113; 1909 PA 211; 1875 PA 88; 1937 PA 215; also MSA 5.3071 et seq.

116.004 - Definitions.

Sec. IV.

- A. *Cemetery*. The term "cemetery" as used herein shall be deemed to refer to any public burial grounds, owned or operated by the Township.
- B. *Lot or block*. The words "lot" and "block" shall mean any areas shown on the map of a cemetery. It may contain any number of grave sites as designated by the plat.

- C. *Grave site.* Any area designated for the interment, inurement, or entombment of a single body. It shall include any c niche, or other burial space.
- D. *Interment.* Shall include the permanent disposition of the remains of a deceased person by cremation, entombment or burial.
- E. *Memorial.* Shall include any monument, marker, tablet, headstone, tombstone or like device, made of stone or concrete, to mark a grave.
- F. *Owner.* Owner means any person or persons owning or possessing the privilege, license, or right of interment in any burial space.
- G. *Resident.* Shall be defined as an individual, living in the Township or domiciled in the Township at the time of death, or who had lived in the Township for a period of at least five of the last ten years prior to death. All others are non-residents.

116.005 - Responsibility and control.

Sec. V.

- A. The Township will own, operate, and maintain public cemeteries in accordance with the state statutes, this Ordinance, and the rules and regulations promulgated hereunder.
- B. *Regulations.* The Township may enact and amend rules and regulations from time to time consistent with the provisions of this Ordinance, which shall govern conduct, operation, maintenance and management of the cemeteries, including work and other activities in the Township cemeteries. Fees to be charged shall be by an action of the Township Board. Such rules and regulations shall be subject to the approval of the Township Board. When so approved, it shall be unlawful for any person to violate any provision of such rules and regulations.
- C. *Permits/records.* The Township clerk shall issue permits and maintain records concerning all burial permits, separate and apart from any other records of the Township, and the same shall contain the name of the cemetery, lot, site, block, name and address of the permit holder, and date of burial.
- D. *Sexton.* The sexton of the cemetery shall be appointed by the Township Board and shall be responsible for all cemetery maintenance. Burials and marker foundation installations shall be performed or supervised by the sexton.

116.006 - Sale of burial rights.

Sec. VI.

- A. All burial sites are to be used only for human remains.
- B. Hereafter, cemetery lots or burial rights shall be primarily reserved for residents of the Township for the purpose of the burial of such purchaser or his or her heirs at law or next of kin. The Township clerk, however, is hereby granted the authority to vary the aforesaid restriction on sales where the purchaser desires burial within the Township or discloses sufficient personal reasons for burial therein.
- C. All such sales shall be made on a form approved by the Township Board, which grants the 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.
- D. The Township Board reserves the right to limit to four the number of burial sites sold to one family. The owner of burial site rights is not entitled to sell these rights to another person.
- E. Burial rights may be transferred only by endorsement of an assignment of such burial permit upon the original

burial permit form issued by the Township clerk and approved by said clerk, and entered upon the official records 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.

116.007 - Effective date.

Sec. VII. This Ordinance shall take effect immediately. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Part 130

130.000 - UNIFORM FIRE CODE AND UNIFORM FIRE CODE STANDARDS Ord. No. 97 Adopted: July 8, 1991

An Ordinance adopting the Uniform Fire Code and Uniform Fire Code Standards prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials or explosion; providing for the issuance of permits for hazardous uses or operations; and establishing a bureau of fire prevention and providing officers therefor and defining their powers and duties pursuant to 1951 PA 33 as amended.

THE TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN, ORDAINS:

Footnotes:

--- (1) ---

Cross reference— *Liquor license, § 15.002(B)(9); outdoor assembly, § 16.005(p); dumping ground, § 110.002(d), (k), (l); litter, § 111.003(3).*

130.001 - Title.

Sec. I. This Ordinance shall be known and cited as the Pavilion Township Uniform Fire Code and Uniform Fire Code Standards Ordinance.

130.002 - Purpose.

Sec. II. The purpose of this Ordinance is to protect and secure the public health, safety and general welfare by the regulation of use of property in Pavilion Township by adopting the Uniform Fire Code and Uniform Fire Code Standards which prescribe regulations governing conditions hazardous to life and property from fire, hazardous materials or explosion, and to provide for the issuance of permits for hazardous uses or operations; to establish a fire prevention bureau and describe their powers and duties.

130.003 - Adoption of Uniform Fire Code.

Sec. III. The Uniform Fire Code, including all the Appendix Chapters and the Uniform Fire Code Standards published by the Western Fire Chiefs Association and the International Conference of Building Officials, being particularly the 1991 editions thereof and the whole thereof, are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this Ordinance shall take effect, the provision thereof shall be controlling within the limits of the Township of Pavilion.

130.004 - Establishment and duties of Bureau of Fire Prevention.

Sec. IV.

- A. The Uniform Fire Code shall be enforced by the fire chiefs or Bureau of Fire Prevention when established.
- B. The chiefs of the fire department may recommend to the Township Board the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and nonmembers of the fire department, and appointments made after examination shall be for an indefinite term with removal only for cause.

130.005 - Definitions.

Sec. V. Wherever the word "jurisdiction" is used in the Uniform Fire Code, it is the Township of Pavilion.

130.006 - Appeals.

Sec. VI. Whenever a chief disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief to the Board of Appeals described in § 2.303 within 30 days from the date of the decision appealed.

130.007 - Penalties.

Sec. VII.

- A. Any person who violates any of the provisions of this Code or Standards hereby adopted or fail to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the _____ or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine of not more than \$100.00 or by imprisonment for not more than 90 days or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.
- B. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

130.008 - Repeal of conflicting Ordinances.

Sec. VIII. All former Ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance or of the Code or Standards hereby adopted are hereby repealed. Ordinance 28, the Fire Prevention Ordinance, is specifically repealed.

130.009 - Validity.

Sec. IX. The Township Board hereby declares that should any section, paragraph, sentence or word of this Ordinance or of the Code or Standards hereby adopted be declared for any reason to be invalid, it is the intent of the Board that it would have passed all other portions of this Ordinance independent of the elimination herefrom of any such portion as may be declared invalid.

130.010 - Effective date.

Sec. X. This Ordinance shall take effect on August 8, 1991.

Part 131

131.000 - DANGEROUS BUILDINGS Ord. No. 86 Adopted: September 14, 1987

An Ordinance to secure the public peace, health, safety and welfare of the residents and property owners of the Township of Pavilion, Kalamazoo County, Michigan, by the regulation of dangerous buildings injurious to life or health; to provide for the means by way of hearings for the making safe or demolition of such dangerous buildings; to provide for the appointment of a hearing officer; to provide penalties for the violation of said Ordinance; to provide for assessment of the cost of said making safe or demolition of dangerous buildings; and to repeal all Ordinances and parts of Ordinances in conflict therewith.

THE TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN ORDAINS:

Footnotes:

--- (1) ---

Cross reference— *Building Code, § 145.007.*

131.001 - Title.

Sec. I. This Ordinance shall be known and cited as the Pavilion Township Dangerous Buildings Ordinance.

131.002 - Dangerous building defined.

Sec. II. As used in this Ordinance, the term "dangerous building" means any building or structure, residential or otherwise, which has any of the following defects or is in any of the following conditions:

- A. Whenever any door, aisle, passageway, stairway or other means of ingress or egress does not conform to the Building Codes or Fire Codes effective within the Township, it shall be considered that such building does not meet the requirements of this Ordinance.
- B. Whenever any portion has been damaged by fire, wind, flood, or by any other cause in such a manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of the Housing Law of the State of Michigan, being Act No. 167 of the Public Acts of 1917, as amended, or the Building Codes of the Township for a new building or similar structure, purpose or location.
- C. Whenever any portion of member or appurtenance is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- D. Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction by the Housing Law of the State of Michigan, being Act No. 167 of the Public Acts of 1917, as amended, or the Building Codes of the Township.
- E. Whenever the building or structure or any part, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or for other reason, is likely to fall or give way.
- F. Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.
- G. When the building or structure has been so damaged by fire, wind or flood, or has become so dilapidated or

deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals or immoral persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral acts.

- H. Whenever a building or structure, because of dilapidation, decay, damage, or faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease when so determined by the health officer of the Township or County of Kalamazoo, or is likely to work injury to the health, safety or general welfare of those living or working within.
- I. Whenever any building becomes vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.
- J. Whenever any unoccupied building is boarded up for a period of more than six months without an extension granted by the hearing officer appointed pursuant to section V of this Ordinance; any extension granted shall be granted pursuant to a hearing as set forth in section V, provided, however, that no action shall be taken under this Ordinance regarding any such building, unless such building is also a "dangerous building" as defined in one or more other subsections of this section of this Ordinance.
- K. The term "dangerous building" shall also include any sign, fence, shed, lean-to, cellar or other structure which has become so rotted, broken, infirm or dilapidated so as to endanger persons or property.

131.003 - Prohibition.

Sec. III.

It shall be unlawful for any owner or agent thereof to keep or maintain any building or part thereof which is a dangerous building as defined in this Ordinance.

131.004 - Notice.

Sec. IV.

- A. When the whole or any part of any building or structure is found to be in a dangerous condition, the Township building inspector shall issue a notice of the dangerous condition.
- B. Such notice shall be directed to the owner of or party in interest in the building in whose name the property appears on the last local tax assessment records of the Township.
- C. The notice shall specify the time and place of a hearing on the condition of the building or structure at which time and place the person to whom the notice is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe.
- D. All such notices required by this Ordinance shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records, at least ten days before the date of the hearing described in the notice. If any person to whom a notice is directed is not personally served, in addition to mailing the notice, a copy thereof shall be posted upon a conspicuous part of the building or structure at least ten days prior to the hearing date.

131.005 - Hearing officer; duties.

Sec. V.

- A. A hearing officer, who is a township property owner and resident, shall be appointed by the Township supervisor

to serve at the pleasure of the supervisor. Compensation to be determined by the Township Board.

- B. The building inspector shall file a copy of the notice of the dangerous condition of any building with the hearing officer.
- C. At any hearing held, the hearing officer shall take testimony of the building inspector, the owner of the property, and any other interested party. Upon the taking of such testimony, the hearing officer shall render his decision either closing the proceedings or ordering the building to be vacated or demolished or otherwise made safe.
- D. If it is determined by the hearing officer that the building or structure should be vacated or demolished or otherwise made safe, he shall so order, fixing a time in the order for the owner or party in interest to comply therewith.
- E. If the owner or party in interest fails to appear or neglects or refuses to comply with the order, the hearing officer shall file a report of his findings and a copy of his order with the Township Board and request that the necessary action be taken to vacate or demolish or otherwise make safe the building or structure. A copy of such findings and order of the hearing officer shall be served on the owner or party in interest in the manner prescribed in section IV(D).

131.006 - Hearing.

Sec. VI. Upon receiving the findings and order of the hearing officer, the Township Board shall fix a date for hearing, reviewing the findings and order of the hearing officer and shall give notice to the owner or party in interest in the manner prescribed in section IV(D) of the time and place of the hearing. At the hearing, the owner or party in interest shall be given the opportunity to show cause why the building should not be vacated or demolished or otherwise made safe and the Township Board shall either approve, disapprove or modify the order for vacation or demolition or making safe of the building or structure.

131.007 - Work done by Township.

Sec. VII. In the event of the failure or refusal of the owner or party in interest to comply with the decision of the Township Board, the Township Board may, in its discretion, contract for the vacation or demolition or making safe of the dangerous building. The cost of the vacation or demolition or making the building safe shall be a lien against the real property and shall be reported to the assessing officer of the Township who shall assess the cost against the property on which the building or structure is located. The owner or party in interest in whose name the property appears upon the last local tax assessment records of the Township shall be notified of the amount of such costs by first class mail at the address shown on the records. If he fails to pay the same within thirty days after mailing by the assessor of the notice of the amount thereof, the assessor shall add the same to the next tax roll of the Township and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by the Township.

131.008 - Appeal; securing premises.

Sec. VIII. An owner or party in interest aggrieved by any final decision of the Township Board may appeal the decision or order to the Circuit Court for the County of Kalamazoo by filing a petition for an order of superintending control within 28 days after the date of such decision.

If the building inspector believes an immediate serious danger exists to the public where a vacant building or structure is left open to casual entry, he may give a notice by personal service to the owner of record as shown on the current tax roll, or by leaving such notice at his place of residence as shown on the current tax roll. And also similarly serving any other interested persons (as shown on the tax roll) pertaining to a hearing on the matter to be held no sooner than 24 hours after effecting such

service. The purpose of the hearing shall be to consider the request of the building inspector that the Township be authorized to go upon the property for the express purpose of boarding up or making the premises secure from casual entry immediately. After taking testimony from the building inspector, owner (if he appears) and other interested persons who may appear, the hearing officer shall consider the urgency of the matter, whether a real danger exists to persons, including minors, who might enter the building or structure and whether there is evidence that unauthorized persons are or have entered the premises. If the hearing officer believes that such immediate dangers exist by the building or structure remaining open to casual entry, he may authorize such work as may be necessary to be done by the Township immediately to make the premises secure. The cost of such work shall be paid by the property owner within 30 days of billing by the Township. If such costs are not paid, the Township may institute suit to collect same or take such other action as may be allowed by law to compel payment.

The Township may seek relief from the Circuit Court for the county of Kalamazoo or any other court to enforce the provisions of the Ordinance.

131.009 - Repeal.

Sec. IX. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

131.010 - Effective date.

Sec. X. This Ordinance shall take effect on September 14, 1987.

Part 132

132.000 - COST RECOVERY FOR EMERGENCY HAZARDOUS WASTE CLEAN-UP Ord. No. 106 Adopted: February 12, 1996

An Ordinance to establish charges and cost recovery for Township emergency services when responding to an incident involving hazardous materials under 1990 PA 102; MCL 41.806a; MSA 5.2640(6a).

THE TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN, ORDAINS:

132.001 - Purpose.

Sec. 1. In order to protect the Township from incurring extraordinary expenses resulting from the utilization of Township resources to respond to an incident involving hazardous materials, the Township Board authorizes the imposition of charges to recover reasonable and actual costs incurred by the Township in responding to calls for assistance in connection with a hazardous materials release.

132.002 - "Hazardous materials" defined.

Sec. 2. For purposes of this ordinance, "hazardous materials" include, but are not limited to, a chemical that is a combustible liquid, a flammable gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable reactive or water reactive.

132.003 - "Release" defined.

Sec. 3. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or disposing of hazardous materials into the environment.

132.004 - "Responsible party" defined.

Sec. 4. Any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity that is responsible for a release of a hazardous material, either actual or threatened, or is an owner, tenant, occupant or party in control of property onto which or from which hazardous materials release.

132.005 - Charges imposed upon responsible party.

Sec. 5. Where the Township fire department responds to a call for assistance in connection with a hazardous materials release, actual costs incurred by the Township responding to such a call shall be imposed upon responsible parties, including, but not limited to:

- A. All personnel-related costs incurred by the Township as a result of responding to the hazardous materials incident. Such costs may include, but are not limited to, wages, salaries and fringe benefits and insurance for full-time and part-time fire fighters; overtime pay and related fringe benefit costs for hourly employees, and fire run fees paid to on-call fire fighters. Such personnel-related charges shall commence immediately when the fire department has responded to the hazardous materials incident, and shall continue until all Township personnel have concluded hazardous materials incident-related responsibilities.
- B. The loss, damage or use of Township equipment in addition to the cost of rental or purchase of machinery or equipment. Charges expended for labor, consultants, legal and engineering, medical and hospitalization costs, and the replacement costs related to disposable personal protective equipment, extinguishing agents, supplies, water purchased from municipal water systems and meals and refreshments for personnel while responding to the hazardous materials incident.
- C. Charges to the Township imposed by any local, state or federal government entities related to the hazardous materials incident.
- D. Costs incurred in accounting for all hazardous material incident-related expenditures, including billing and collection costs.

132.006 - Billing procedures.

Sec. 6. Following the conclusion of the hazardous materials incident, the fire chief shall submit a detailed listing of all known expenses to the Township treasurer, who shall prepare an invoice to the responsible party for payment. The treasurer's invoice shall demand full payment within thirty (30) days of receipt of the bill. Any additional expenses that become known to the Township fire chief following the transmittal of the bill to the responsible party shall be billed in the same manner on a subsequent bill to the responsible party. For any amounts due that remain unpaid after thirty (30) days, the Township shall impose a late charge of one percent (1%) per month, or fraction thereof.

132.007 - Other remedies.

Sec. 7.

- A. The Township may pursue any other remedy, or may institute any appropriate action or proceeding, in a court of competent jurisdiction to collect charges imposed under this ordinance. The recovery of charges imposed under this ordinance does not limit liability of responsible parties under local ordinance or state or federal law, rule or regulation.
- B. In the event the charges submitted to the responsible party by the Township are unpaid within [sixty] 60 days of submission, those charges and interest constitute a lien against the responsible parties' ownership interest in the

real estate upon which a release occurred. That lien shall be subject to foreclosure in the same manner as mechanics' liens for non-payment, or after six months delinquency, may be certified to the supervisor and assessing officer of the Township annually, on or before March 1st of each year and entered by the supervisor upon the next tax roll against the property served, for collection in the same manner as the collection of taxes.

132.008 - Subrogation.

Sec. 8. The Township may assign the claim or cause of action to any other person, municipality, insurance company or private entity incurring the costs, loss or expense on behalf of the Township.

132.009 - Severability.

Sec. 9. Should any provision or part of the within ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not effect the validity or enforceability of the balance of this ordinance which shall remain in full force and effect.

132.010 - Effective date.

Sec. 10. This ordinance shall take effect immediately. All ordinances or parts of ordinances in conflict are hereby repealed.

Part 145

145.000 - BUILDING CODE Ord. No. 100 Adopted: August 9, 1993

An Ordinance establishing minimum regulations governing the design, construction, alteration, enlargement, repair, demolition, removal, maintenance and use of all buildings and structures; providing for the issuance of permits, collection fees, making of inspections.

An Ordinance to update and amend the Township Building Code Ordinance, the Pavilion Township Electrical Code Ordinance, and the Pavilion Township Mechanical Code Ordinance by the adoption of the Michigan Construction Code pursuant to provisions of 1972 PA 230, as amended; to assume responsibility for administration and enforcement of the Michigan Construction Code; to provide for the administration and enforcement of this Ordinance by the Township through agreement or otherwise; to permit the Township Board to set certain fees by resolution; to amend and/or supplement certain portions of the said Ordinance as permitted; to provide for penalties for violation of this Ordinance; and to repeal all ordinances or parts of ordinances in conflict herewith.

THE TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN ORDAINS AS FOLLOWS:

Footnotes:

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Editor's note— The provisions of former Part 145 relative to the Uniform Building Code, have been deleted pursuant to the adoption of Ord. No. 100, which enacted a new Building Code in Section 145.002. The provisions of former Part 145 derived from Ord. No. 95, §§ I—X.

Cross reference— Liquor license, § 15.002(B)(9); anti-noise and public nuisance, 90.002(b), dumping ground, § 110.002(d); dangerous buildings, Pt. 131; electrical code, Pt. 146; plumbing code, Pt. 147; energy code, Pt. 149; zoning, Pt. 200.

145.001 - Title.

Sec. I. This Ordinance shall be known and cited as the Pavilion Township Building Code Ordinance.

145.002 - Assumption of responsibility.

Sec. II. Pursuant to 1972 PA 230, the Township assumes the responsibility for the administration and enforcement of the Michigan Construction Code and that Code is hereby adopted as the Building Code of the Township of Pavilion, Kalamazoo County, State of Michigan, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said State Construction Code, are hereby referred to adopted and made a part hereof as if fully set out in this Ordinance, thus replacing the ordinances hereinafter repealed.

145.003 - Repeal of ordinances.

Sec. III. Pavilion Township Ordinances #88, #89, and #90 entitled Pavilion Township Building Code Ordinance, Pavilion Township Electrical Code Ordinance, and Pavilion Township Mechanical Code Ordinance and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

145.004 - Insertions and completions.

Sec. IV. The following sections are completed as follows:

Section 100.1. Title: These regulations shall be known as the Building Code of Pavilion Township hereinafter referred to as "this code."

Section 103.4. Rehabilitation: Buildings existing prior to August 9, 1993, in which there is work involving repairs, alterations, additions or changes of use, shall be made to conform to the code by applying the requirements of Article 32 or the provisions of Articles 2 through 31.

Section 114.3.1. Fee schedule: A fee for each plan examination, building permit and inspection shall be paid in accordance with the schedule as provided by Township resolution.

Section 114.3.2 Late application: In the event construction is commenced before the required building permits are obtained, the permit fee will be an additional 25 percent of the original fee for a total fee of 125 percent of the original fee. This late application fee will be retained by the Township and is in addition to any penalty or late fee charged by the building inspector.

Section 117.4. Violation penalties: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than One Hundred and 00/100 Dollars (\$100.00), or by imprisonment not exceeding 90 days, or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense.

Section 118.2. Unlawful continuance: Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe conditions, shall be liable to a fine of not less than One Hundred and 00/100 Dollars (\$100.00) or more than Five Hundred and 00/100 Dollars (\$500.00).

[Section] 123.3. Compensation of board of survey: The third member of the board shall receive for services a fee of Fifty and 00/100 Dollars (\$50.00).

(Amended by: Ord. No. 121, 5-8-00)

145.005 - Effective date.

Sec. V. This Ordinance shall take effect 60 days hereafter.

Part 147

147.000 - PLUMBING CODE Ord. No. 48

An Ordinance to adopt a nationally recognized model Plumbing Code within the Township pursuant to Act No. 230 of the Public Acts of 1972, as amended, (MCLA 125.1501 et seq.; MSA 5.2949[1] et seq.); to exempt the Township from the operation and effect of said Act; to provide for the administration and enforcement of this Ordinance and the Plumbing Code by the Township through agreement or otherwise; to provide penalties for violations thereof; and to repeal existing Township Plumbing Codes and Plumbing Code Ordinances or other Ordinances in conflict therewith.

THE TOWNSHIPS OF ALAMO, BRADY, CHARLESTON, COMSTOCK, COOPER, KALAMAZOO, OSHTEMO, PAVILION, PRAIRIE RONDE, RICHLAND, ROSS, SCHOOLCRAFT, TEXAS AND WAKESHMA, KALAMAZOO COUNTY, MICHIGAN ORDAIN:

Footnotes:

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Cross reference— *Liquor license, § 15.002(B)(9); public water and sewer service, § 113.03(C)(4); sewers, Pt. 114; Uniform Building Code, Pt. 145.000; subdivision, Pt. 175.*

147.001 - Title.

Sec. I. This Ordinance shall be known and cited as the Township Plumbing Code Ordinance.

147.002 - Purpose.

Sec. II. This Ordinance is enacted by the Township for the purpose of continuing the exemption of the Township from the operation and effect of Act No. 230 of the Public Acts of the State of Michigan of 1972, as amended (MCLA 125.1501 et seq.; MSA 5.2949[1] et seq.), pursuant to Section 8 of said Act, by the adoption in this Ordinance of a nationally recognized model Plumbing Code, which code shall be administered and enforced by the Township as provided for in this Ordinance and in said Plumbing Code. The State Construction Code Commission and/or any agency of the County of Kalamazoo charged with the responsibility of enforcing said Act is hereby relieved of any right, authority or responsibility for the enforcement of any State Construction Code or State Plumbing Code within the Township.

147.003 - Adoption of Michigan Plumbing Code.

Sec. III. A certain document or booklet, official copies of which are on file in the office of the Township clerk and which may be examined by the general public during regular business hours or by appointment, which is marked and entitled as "BOCA Basic Plumbing Code, 1970 Edition", including accumulative supplement dated 1973, as published by the Building Officials and Code Administrators, International, Incorporated, of Chicago, Illinois, is hereby adopted by reference as if fully set forth herein as a part of this Ordinance for the purpose of regulating the installation, enlargement, alteration, repair, or maintenance of plumbing fixtures, plumbing facilities, plumbing appliances and plumbing devices within the Township; each and all of the regulations, provisions, penalties, conditions and terms thereof, except as may hereafter be modified, shall be deemed adopted and made a part hereof by this reference as if fully set forth in this Ordinance.

147.004 - Enforcement.

Sec. IV. The Township hereby assumes the right and authority to administer and enforce this Ordinance and the BOCA Basic Plumbing Code in the manner provided by law and by the said Plumbing Code. The Township specifically reserves the right to provide by agreement or contract with any other township, village, city, county or with the State of Michigan for the joint enforcement and administration of this Ordinance and the Uniform Plumbing Code.

147.005 - Penalties.

Sec. V. Any violation of this Ordinance or the Plumbing Code or any part thereof shall be punishable by a fine not to exceed \$100.00 plus costs and/or confinement in the county jail for a term not to exceed 90 days. In addition, the Township specifically reserves the right and shall have the authority to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this Ordinance and the said Plumbing Code.

147.006 - Severability.

Sec. VI. Should any portion of this Ordinance or the Uniform Plumbing Code adopted hereby be declared unconstitutional, illegal or of no force and effect by a court of competent jurisdiction, such portion thereof shall not be deemed to affect the validity of any other part or portion thereof.

147.007 - Prior Ordinances.

Sec. VII. All Ordinances or parts of Ordinances in conflict herewith, including any Plumbing Codes or parts of Plumbing Code Ordinances previously adopted by the Township are hereby repealed and shall be of no further force or effect on the effective date of this Ordinance. However, any plumbing permits validly issued before the effective date of this Ordinance shall not be invalidated by this Ordinance and the construction may be completed in compliance with said permit, or renewal thereof, and in compliance with any previous Township Plumbing Code under which the permit was issued. Any proceedings pending, including prosecutions for violations, or rights and liabilities acquired or incurred under any previous Ordinance or Township Plumbing Code being repealed hereby shall not be affected by this Ordinance and may be continued pursuant to said previous Ordinances.

147.008 - Effective date.

Sec. VIII. This Ordinance shall take effect July 1, 1975.

Part 148

148.000 - AMENDMENT TO PLUMBING CODE Ord. No. 49 Adopted: July 1, 1975

An Ordinance to amend the Township Plumbing Code pursuant to Act No. 230 of the Public Acts of 1972 (MCLA 125.1501 et seq.; MSA 5.2949[1] et seq.) by the deletion therefrom of certain sections and by the amendment or addition of other sections relating to title, violations, definition of plumbing terms, new buildings, existing buildings, availability of public systems, industrial-commercial chemical waste information, freezing, water service pipes, prohibited fittings, swimming pools, air gap or air break requirements, building traps, recesses for trap connections, base of stacks, building drain and building sewer junction, underground drainage, plastic connections, requirements for stall type urinals with watertight pans, prohibitions for used water returned, pressure relief valves, temperature relief valves, combination pressure-temperature relief valves, definitions,

authorized master plumbers, plumbing permits, building sewer and private sewer permits, and certain requirements relating to a home owner; and fees; to provide penalties for violations thereof; and to repeal existing township Ordinances in conflict therewith.

THE TOWNSHIPS OF ALAMO, BRADY, CHARLESTON, COMSTOCK, COOPER, KALAMAZOO, OSHTEMO, PAVILION, PRAIRIE RONDE, RICHLAND, ROSS, SCHOOLCRAFT, TEXAS AND WAKESHMA, KALAMAZOO COUNTY, MICHIGAN ORDAIN:

Footnotes:

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Cross reference— *Public water and sewer service, Pt. 113; sewers, Pt. 114; sanitary sewer connection and service charge, Pt. 115.*

148.001 - Amendments.

Sec. I. The Township Plumbing Code, being the "BOCA Basic Plumbing Code, 1970 Edition", including accumulative supplement dated 1973, which was previously adopted by the Township as the Township Plumbing Code is hereby amended, in the following sections, as follows:

- A. Sections P-102.0, P-105.0, P-302, P-501.2, P-1101.5, P-1205.2, P-1500.0 through P-1511.4, and P-1700.0 through P-1705.2 are hereby deleted.
- B. Section P-100.2 of the code is amended to read as follows:
P-100.2. Title. This part shall be known as the Michigan Plumbing Code and is hereinafter referred to as the Plumbing Code or this code.
- C. Section P-117.0 of the code is amended to read as follows:
P-117.0. Violations. Written notice of any violation of this code shall be given by the administrative authority to the violator within seven days thereof, and upon his failure to remove the violation within a reasonable time, prosecution for violation of this code shall be commenced against him.
- D. Section P-201.1 of the code is amended to read as follows:
P-201.1 Definition of Terms. Administrative Authority. The individual official, board, department, or agency established and authorized by a state, county, city, or other political subdivision created by law to administer and enforce the provisions of the Plumbing Code as adopted or amended; except when used in sections P-301.3, P-301.31, P-301.32, P-401.1, P-405.22, P-405.28, P-405.33, P-405.51, P-406.8, P-502.6, P-502.7, P-602.33, P-602.51, P-602.54, P-916.0, P-1002.31, P-1216.2, P-1605.114; it means the state administrative authority and not a local authority. (All other definitions within the section remain the same.)
- E. Section P-301.1 of the code is amended to read as follows:
P-301.1. New Buildings. All plumbing materials and plumbing systems or parts thereof installed hereafter shall meet the provisions of this code.
- F. Section P-301.2 of the code is amended to read as follows:
P-301.2. Existing Buildings. In existing buildings or premises in which plumbing installations are to be altered, renovated or replaced, such new materials and work shall meet the provisions of this code. Where the administrative authority shall find that the full performance of bringing such work into compliance with all requirements of this code would result in exceptional or undue hardship by reason of excessive structural or mechanical difficulty, or impracticability, a deviation may be granted by the administrative authority only where, and to the extent, necessary

to relieve such exceptional or undue hardship, and only where, and to the extent, such deviation can be granted without impairing the intent and purpose of this code. A record, open to inspection by the public, shall be maintained by the administrative authority of each and every deviation allowed under the terms of this section.

G. Section P-308.2 of the code is amended to read as follows:

P-308.2. Public Systems Available. A public water supply system and/or public sewer system shall be deemed available to premises used for human occupancy if such premises are within 200 feet, measured along a street, alley, or easement, of the public water supply or sewer system, and a connection conforming with the standards set forth in this code may be made thereto.

H. Section P-309.3 of the code is added as follows:

P-309.3. Industrial-Commercial Chemical Waste Information. When plans of plumbing installations that involve industrial or commercial type wastes are submitted for approval, complete process information shall accompany the plans. The information shall include without limitation the following:

- (a) Description of process yielding the waste.
- (b) Composition and concentration of chemical mixtures in the process.
- (c) Composition of wastes and concentration of constituents.
- (d) Quantities of wastes to be treated and rates of discharge to treatment equipment.
- (e) Capacity of largest process tank or tanks that will be simultaneously discharged.
- (f) Water demands of the industrial waste producing process.
- (g) Description of waste treatment equipment to be used, including capacities, methods of treatment, quality of effluent, nature and disposition of products resulting from treatment.

I. Section P-313.3 of the code is amended to read as follows:

P-313.3. Freezing. Water service piping and sewers shall be installed below recorded frost penetration. In climates with freezing temperatures, plumbing piping in exterior building walls shall be adequately protected against freezing by insulation or heat or both.

J. Section P-405.12 of the code is amended to read as follows:

P-405.12. Water Service Pipe. Water service pipe shall be made of asbestos cement pipe, brass pipe, copper pipe, copper tube, cast iron water pipe, open-hearth iron pipe, plastic pipe or steel pipe. Copper tube when used underground shall have a weight not less than copper water tube type L. All threaded ferrous pipe and fittings shall be galvanized or cement lined. When used underground in corrosive soil or fill, the piping material or protective coating or covering shall be as approved by the State plumbing board.

K. Section P-602.31 of the code is amended to read as follows:

P-602.31. Prohibited Fittings. No tee branch shall be used as a drainage fitting. No fitting or connection which has an enlargement chamber or recess with a ledge or shoulder, or reduction in pipe area shall be used. No running threads, bands, or saddles, shall be used. No drainage or vent piping shall be drilled, tapped or welded.

L. Section P-701.16 of the code is amended to read as follows:

P-701.16. Swimming Pools. Pipes carrying waste water from swimming or wading pools, including pool drainage, back wash from filters and water from floor drains which serve walks around pools, may be installed as piping for an indirect waste. Where the recirculation pump is used to discharge waste pool water to the drainage system, the pump discharge line shall be installed to convey an indirect waste to the sewer.

M. Section P-701.2 of the code is amended to read as follows:

P-701.2. Air Gap or Air Break Required. All indirect waste piping shall discharge into the building drainage system through an air gap or air break, as set forth in Section P-701.1 of this code.

N. Section P-1001.7 of the code is amended to read as follows:

P-1001.7. Building Traps. The use of building or house traps is optional except where specifically required by the administrative authority. Each building trap, when installed, shall be provided with a cleanout and with a relieving vent or fresh air intake on the inlet side of the trap which need not be larger than $\frac{1}{2}$ the diameter of the drain to which it connects. The relieving vent or fresh air intake shall be carried above grade and terminate in a screened outlet located outside the building.

O. Section P-1001.9 of the code is added as follows:

P-1001.9. Recesses for Trap Connection. A recess provided for connection of the underground trap such as one serving a bath tub in slab-type construction shall have sides and bottom of corrosion resistant, insect and vermin proof construction.

P. Section P-1101.3 of the code is amended to read as follows:

P-1101.3. Base of Stacks. An accessible cleanout shall be provided at or near the foot of each vertical waste or soil stack.

Q. Section P-1101.4 of the code is amended to read as follows:

P-1101.4. Building Drain and Building Sewer Junction. There shall be a cleanout near the junction of the building drain and the building sewer. This cleanout may be either inside or outside the building wall. If outside, the cleanout shall not be installed in public property nor more than five feet from the outside face of the wall or other permanent obstruction or foundation. If inside, the cleanout opening shall be not more than 24 inches from the inside face of the wall, except that buildings with unusually wide footings shall have the cleanout installed as close to the finished wall as possible, without encasement of the cleanout extension in the foundation.

R. Section P-1102.0 of the code is amended to read as follows:

P-1102.0. Underground Drainage. Cleanouts, when installed on an underground drain, shall be extended vertically to or above the finished grade level.

S. Section P-1204.55 of the code is amended to read as follows:

P-1204.55. Plastic Connections. Plastic water closet bends may be used when provided with a suitable 4-inch by 3-inch flange used to receive the fixture horn.

T. Section P-1205.41 of the code is added to read as follows:

P-1205.41. Urinals, Stall Type, Watertight Pans Required. Urinals of stall type shall be constructed so as to have a watertight pan of lead or other approved materials by the state plumbing board installed beneath them. The drain for the urinal shall be made with a drainable clamping ring assembly to the watertight pan.

U. Section P-1605.10 of the code is amended to read as follows:

P-1605.10. Used Water Return Prohibited. Water used for cooling of equipment or other processes shall not be returned to the potable water system. The water shall be discharged into a drainage system through an air gap or may be used for nonpotable purposes.

V. Section P-1606.21 of the code is amended to read as follows:

P-1606.21. Pressure Relief Valves. The valves shall have a relief rating adequate to meet the pressure conditions in the equipment served. They shall be installed in the cold water supply line to the heating equipment served except where scale formation from hard water may be encountered in which case they may be installed in the hot water supply line from the heating equipment served. There shall be no shutoff valve between the pressure relief valve and the tank. The pressure relief valve shall be set to open at not less than 25 p.s.i. above the street main pressure or not less than 25 p.s.i. above the setting of any house water pressure regulating valve. The setting shall not exceed the tank working pressure. The minimum size of both the inlet and discharge connections shall be ¾-inch pipe size except that relief valves protecting water heating systems with input of not more than 15,000 BTU per hour may have inlet and discharge connections of ½ inch pipe size.

W. Section P-1606.22 of the code is amended to read as follows:

P-1606.22. Temperature Relief Valves. Temperature relief valves shall be of adequate relief rating, expressed in BTU/HR, for the equipment served. They shall be installed so that the temperature sensing element is immersed in the hottest water within the top six inches of the tank. The valve shall be set to open when the stored water temperature is 210° F. or less. The minimum size of both the inlet and discharge connections shall be ¾-inch pipe size except that relief valves protecting water heating systems with input of not more than 15,000 B.T.U. per hour may have inlet and discharge connections of ½-inch pipe size.

X. Section P-1606.23 of the code is amended to read as follows:

P-1606.23. Combination Pressure-Temperature Relief Valves. Combination pressure-temperature relief valves shall comply with the applicable requirements for individual pressure and individual temperature relief valves and shall be installed so that the temperature sensing element is immersed in the hottest water within the top six inches of the tank. The minimum size of both the inlet and discharge connections shall be ¾-inch pipe size except that relief valves protecting water heating systems with input of not more than 15,000 B.T.U. per hour may have inlet and discharge connections of ½ inch pipe size.

148.002 - Definitions.

Sec. II. As used in this Ordinance and in the Plumbing Code, the following terms have the following meanings:

- (a) *Authorized master plumber* means a person who has met the qualifications to obtain plumbing permits from an administrative authority.
- (b) *Building sewer permit* means a permit issued by an administrative authority for a building sewer.
- (c) *Plumbing permit* means a permit issued by an administrative authority for a plumbing and plumbing system.
- (d) *Private sewer permit* means a permit issued by an administrative authority for a private sewer.

148.003 - Additional requirements.

Sec. III. Notwithstanding anything to the contrary in the Township Plumbing Code, the following subsections are additions to said code and are paramount in their application.

A. Authorized master plumbers.

1. To obtain plumbing permits, an applicant shall:

- (a) Be an authorized licensed master plumber in this state.
- (b) Be active in the business of serving the public as a master plumber in a county, city, village or township in this state.

- (c) Represent only one firm, which may operate one or more branches in this state bearing the same firm name. The master plumber is in charge and has the responsibility of supervision at each branch. A firm may have one or more master plumbers to obtain permits. The names of the authorized master plumbers representing a firm shall be filed with the state plumbing board.
 2. To become an authorized master plumber, an application shall be made on a form furnished by the state plumbing board and filed with the board at Lansing, Michigan. An incomplete application will be returned to the applicant.
- B. Plumbing permits.
1. An applicant for a permit shall be an authorized master plumber.
 2. An application for a permit shall be made in writing on a form provided by an administrative authority. An incomplete application shall be returned to the applicant. The application shall contain:
 - (a) Name of authorized master plumber.
 - (b) Master plumber license number.
 - (c) Name of the plumbing firm.
 - (d) Address of place of business.
 - (e) Name and address of the owner or agent for whom the work is being done.
 - (f) Location of work by city or township, county, street and number, or lot and block number when street number is not available.
 - (g) Type of building.
 - (h) Number and type of fixtures or devices to be installed or nature of construction, alteration or repair.
 3. An authorized master plumber is responsible for completion of the plumbing for which he has an active permit. Permits issued to an authorized master plumber representing a plumbing firm are valid for the firm to complete the plumbing upon his death. However, work shall be done under the supervision of a master plumber.
 4. If the authorized master plumber who signs an application for a permit does not desire to do the work covered by it, either in part or in its entirety, he shall notify the administrative authority in writing, requesting that he be released from responsibility for that part of the work which he does not desire to do. However, he will be held responsible for the work which he has completed. The administrative authority's record shall indicate the extent of the completed work and the responsibility.
 5. When an emergency requires a plumbing permit, the authorized master plumber shall apply for a permit within 72 hours.
 6. An administrative authority may refuse to issue new permits to an authorized master plumber who has failed to correct violations or to any authorized master plumber representing a firm which has failed to correct violations.
- C. Building sewer and private sewer permits.
1. An application for a permit shall be made in writing on a form provided by an administrative authority. An incomplete application shall be returned to the applicant. The application shall contain:
 - (a) Name of the applicant.
 - (b) Name of the applicant's firm.
 - (c) Address of place of applicant's firm.

- (d) Name and address of the owner or agent for whom the work is being done.
 - (e) Location of work by city or township, county, street and number, or lot and block number when street number is not available.
 - (f) Type of building.
 - (g) Nature of sewer construction, alteration or repair.
2. A person is responsible for completion of the work for which he has an active permit.
 3. If the person who signs an application for a permit does not desire to do the work covered by it, either in part or in its entirety, he shall notify the administrative authority in writing, requesting that he be released from responsibility for that part of the work which he does not desire to do. However, he will be held responsible for the work which he has completed. The administrative authority's record shall indicate the extent of the completed work and the responsibility.
 4. When an emergency requires a sewer permit, a person shall apply for a permit within 72 hours.
 5. An administrative authority may refuse to issue new permits to a person who has failed to correct violations or to any person representing a firm which has failed to correct violations.

D. Homeowner installation.

1. A homeowner installing his own plumbing, building sewer or private sewer and having knowledge of the Plumbing Code rules shall:
 - (a) Apply for the appropriate permit.
 - (b) Furnish a statement that all work will be performed by himself and by no one else.
 - (c) Pay the required fee.
 - (d) Apply for inspection by and approval of the administrative authority.

E. Fee schedule.

The fee for plumbing inspections as may be required under the Plumbing Code shall be established from time to time by resolution of the Township Board and shall, in no event, exceed the actual cost of the Township in providing such services.

Cross reference— Sewers, § 114.007.

148.004 - Penalties.

Sec. IV. Any violation of this Ordinance or the Plumbing Code or any part thereof shall be punishable by a fine not to exceed \$100.00 plus costs and/or confinement in the county jail for a term not to exceed 90 days. In addition, the Township specifically reserves the right and shall have the authority to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this Ordinance and the said Plumbing Code.

148.005 - Severability.

Sec. V. Should any portion of this Ordinance or the Uniform Plumbing Code adopted hereby be declared unconstitutional, illegal or of no force and effect by a court of competent jurisdiction, such portion thereof shall not be deemed to affect the validity of any other part or portion thereof.

148.006 - Effective date repeal of conflicting Ordinances.

Sec. VI. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed on the effective date of this Ordinance. This Ordinance shall take effect August 1, 1975. A certified copy of this Ordinance shall be forthwith served upon the Michigan State Construction Code Commission, but in no event less than 60 days prior to the effective date hereof.

Part 149

149.000 - ENERGY CODE Ord. No. 51 Adopted: June 17, 1977

An Ordinance to adopt a recognized model Energy Code for energy conservation in new building designs, which code is adopted pursuant to Act 230 of the Public Acts of 1972, as amended; to exempt the Township from the operation and effect of said Act; to provide for the administration and enforcement of this Ordinance and the Energy Code by the Township through agreement or otherwise; to provide penalties for violations thereof; and to repeal existing Township Energy Codes and Energy Code Ordinances or other Ordinances in conflict therewith.

THE TOWNSHIPS OF CLIMAX, COMSTOCK, KALAMAZOO, OSHTEMO, PAVILION, PRAIRIE RONDE, RICHLAND, ROSS, SCHOOLCRAFT, TEXAS AND BRADY, KALAMAZOO COUNTY, MICHIGAN ORDAIN:

Footnotes:

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Cross reference— *Liquor license, § 15.002(B)(9); building code, Pt. 145.000.*

149.001 - Title.

Sec. I. This Ordinance shall be known and cited as the Township Energy Code Ordinance.

149.002 - Purpose.

Sec. II. This Ordinance is enacted by the Township for the purpose of continuing the exemption of the Township from the operation and effect of Act 230 of the Public Acts of the State of Michigan of 1972, as amended, pursuant to Section 8 of said Act, by the adoption in this Ordinance of a recognized model energy code, which code shall be administered and enforced by the Township as provided for in this Ordinance and in said energy code. The State Construction Code Commission and/or any agency of the County of Kalamazoo charged with the responsibility for the enforcement of any State Construction Code or State Energy Code within the Township.

149.003 - Adoption of Michigan Energy Code.

Sec. III. A certain document or booklet, official copies of which are on file in the office of the Township Clerk and which may be examined by the general public during regular business hours or by appointment, which is marked and entitled "Michigan Energy Code" which consists of the "American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) Standard 90-75, Energy Conservation in New Building Design" with certain modifications thereto as promulgated by the Construction Code Commission of the State of Michigan through Rule 408.31001 et seq. and as filed with the Secretary of State of the State of Michigan on December 22, 1976, is hereby adopted by reference as if fully set forth herein as a part of this Ordinance for the purpose of regulating energy conservation in new building designs. Each and all of the regulations, provisions, penalties, conditions and terms thereof, except as may hereafter be modified, shall be deemed adopted and made a part hereof by this reference as if fully set forth in this Ordinance.

149.004 - Enforcement.

Sec. IV. The Township hereby assumed the right and authority to administer and enforce this Ordinance and the Michigan Energy Code in the manner provided by law and by the said Energy Code. The Township specifically reserves the right to provide by agreement or contract with any other township, village, city, county or with the State of Michigan for the joint enforcement and administration of this Ordinance and the said Energy Code.

149.005 - Penalties.

Sec. V. Any violation of this Ordinance or the Energy Code or any part thereof shall be punishable by a fine not to exceed \$100.00 plus costs and/or confinement in the county jail for a term not to exceed 90 days. In addition, the Township specifically reserves the right and shall have the authority to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this Ordinance and the said Energy Code.

149.006 - Severability.

Sec. VI. Should any portion of this Ordinance or the said Energy Code adopted hereby be declared unconstitutional, illegal or of no force and effect by a court of competent jurisdiction, such portion thereof shall not be deemed to affect the validity of any other part or portion thereof.

149.007 - Prior Ordinances.

Sec. VII. All Ordinances or parts of Ordinances in conflict herewith, including any Energy Code or parts of Energy Code Ordinances previously adopted by the Township are hereby repealed and shall be of no further force or effect on the effective date of this Ordinance. However, any building permits validly issued before the effective date of this Ordinance shall not be invalidated by this Ordinance and the construction thereof may be completed in compliance with said permit, or renewal thereof; and in compliance with any previous Township building or Energy Code under which the permit was issued. Any proceedings pending, including prosecutions for violations, or rights and liabilities acquired or incurred under any previous Ordinance of this Township being repealed hereby shall not be affected by this Ordinance and may be continued pursuant to said previous Ordinances.

149.008 - Effective date.

Sec. VIII. This Ordinance shall take effect August 1, 1977.

Part 151

151.000 - MOBILE HOME REGISTRY AND INSPECTION Ord. No. 31 Adopted: March 9, 1970

An Ordinance to secure the public health, safety, and welfare of the residents and property owners of the Township of Pavilion, Kalamazoo County, Michigan by the registry, inspection and inventory of mobile homes and to provide penalties for violation thereof.

THE TOWNSHIP BOARD OF PAVILION, KALAMAZOO COUNTY, MICHIGAN ORDAINS:

Footnotes:

--- (1) ---

Cross reference— Zoning, §§ 110.410, 110.501.

ARTICLE I

151.100 - TITLE

151.101 - Title.

Sec. I. This Ordinance shall be known and cited as the Pavilion Township Mobile Home Registry and Inspection Ordinance.

151.102 - Mobile home register.

Sec. II. The owner of each mobile home park in the Township shall register each mobile home entering the mobile home park which enter the mobile home park after the effective date hereof.

151.103 - Filing of register.

Sec. III. The owner of the mobile home park shall prepare the registry application in duplicate and file the original registry application with the Township supervisor not more than ten days following the arrival and occupancy of said mobile home within the park. A duplicate copy of the registry application shall be retained by the owner of said park, so long as the mobile home remains in said park.

151.104 - Registry application of newly admitted mobile home.

Sec. IV. Registry application of a newly admitted trailer shall be filed with the Township supervisor not more than ten days following the entry and occupancy of said trailer within the mobile home park; provided, however, that said registry application for any particular mobile home shall be filed prior to the filing of the first monthly inventory in which said mobile home is included.

151.105 - Registry application requirements.

Sec. V. The registry application blanks shall be completed and filed by the owner of the mobile home park, and shall contain the following information:

1. Name of mobile home park;
2. Owner of mobile home park, and address;
3. Date of application;
4. Owner of mobile home, and address;
5. Occupant of mobile home and address;
6. Location of the mobile home within the park designated by street and number or lot number;
7. Date of occupancy;
8. Make and size of mobile home;
9. Vehicle registry number;
10. Signature of owner of the mobile home park;
11. Signature line for Township official showing filing and inspection.

ARTICLE II

151.200 - INVENTORY OF OCCUPIED MOBILE HOMES

151.201 - Mobile home inventory.

Sec. I. The owners of all licensed mobile home parks within the Township shall provide to the Township an inventory of occupied mobile homes within said park.

151.202 - Filing of inventory.

Sec. II.

This inventory shall be prepared in triplicate, the original of which shall be filed with the Township treasurer not later than the tenth day of the month following the reported month. A copy of said inventory shall be filed with the Township supervisor not later than the tenth day of the month following the month reported. A copy of said inventory shall be maintained by the owner of the licensed mobile home park and be retained as his record for a period of not less than one year following the date of the inventory.

151.203 - Inventory requirements.

Sec. III.

The inventory shall contain the following information:

1. Name of the mobile home park.
2. Name and address of the owner of said park.
3. Month of inventory.
4. Date the inventory was prepared.
5. Number of occupied mobile homes on the first day of the month reported.
6. Number of occupied mobile homes the last day of the month reported.
7. The number of mobile homes arriving in the park during the month.
8. The number of mobile homes leaving the park within the month.
9. Each arrival into the mobile home park and each departure therefrom during the month shall be further described as:
 - (a) The name and address of the owner and occupants of the mobile home;
 - (b) The location of the mobile home within the park, designated by street or road and house number or lot number;
 - (c) The date of entry or departure;
 - (d) The vehicle number of the mobile home.
10. Signature of the owner of the park.

ARTICLE III

151.300 - PENALTIES

151.301 - Penalties for violation.

Sec. I.

Any person, firm or corporation who 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 \$100, or by imprisonment in the county jail not to exceed 90 days, or by both such fine and imprisonment. Each day the registry application or the inventory statement is filed late shall constitute a separate violation.

It shall also be a violation of this Ordinance to misrepresent the information on the registry application or the monthly inventory.

151.302 - Validity.

Sec. II.

Should any section, clause, or provision of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

151.303 - Effective date.

Sec. III.

This Ordinance shall take effect on the 21st day of April, 1970.

All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Part 175

175.000 - SUBDIVISION/SITE CONDOMINIUM ORDINANCE Ord. No. 137 Adopted: October 10, 2005

An Ordinance to regulate and control the subdivision of land into plats pursuant to the Michigan Land Division Act (1967 PA 288, as amended), MCL 560.101 et seq.; to regulate the development of land within the Township under the provisions of the Michigan Condominium Act (1978 PA 59, as amended), MCL 559.101 et seq.; and to repeal all Ordinances or parts of Ordinances in conflict herewith.

PAVILION TOWNSHIP KALAMAZOO COUNTY, MICHIGAN ORDAINS:

Footnotes:

--- (1) ---

Cross reference— *Public water and sewers, Pt. 113; sewers, Pt. 114; land division ordinance, Pt. 176; zoning, Pt. 200.*

175.001 - Title.

Sec. I. This Ordinance shall be known as the "Pavilion Township Subdivision/Site Condominium Ordinance".

175.002 - Purpose.

Sec. II. The purpose of this Ordinance is to regulate and control the subdivision of land into plats pursuant to 1967 PA 288; as amended; and to regulate the development of land within the Township under the provisions of 1978 PA 59, as amended, with the objective interest of achieving the same source characteristics and land use results as if the development and improvements were being proposed in accordance with general subdivisions, including all requirements of the Pavilion Township Zoning Ordinance. It is the intent of the Township to ensure that each type of project meets certain minimum standards, that the size of the lots or building sites are equal to the minimum lot size of the zoning district in which the project is located and to treat each type of development in the same manner.

175.003 - Authority.

Sec. III. This Ordinance is enacted pursuant to the authority granted by the Michigan Land Division Act (1967 PA 288, as amended), the Michigan Condominium Act (1978 PA 59, as amended) and 1945 PA 246, MCL 41.181 et seq., as amended, which authorizes Township Boards to adopt Ordinances to secure the public health, safety and general welfare.

175.004 - Definitions.

Sec. IV. For purposes of this Ordinance certain terms and words used herein shall have the following meaning:

- A. *Building Site*. Within a condominium development the same shall mean that portion of a lot or parcel, which is a two-dimensional condominium unit of land (i.e., envelope, foot print), along with any designated space above and/or below the land, designed for the construction of a principal building in addition to any accessory buildings. All building sites shall have access to a public or private street or road.
- B. *Common Elements*. The portions of a condominium project other than the condominium units.
- C. *Condominium Project*. A development or project consisting of not less than two condominium units established in conformance with, and pursuant to, the Condominium Act, 1978 PA 59, as amended.
- D. *Condominium Plan*. The plan as required in this ordinance, including but not limited to, the survey and utility plans, building site, the existing and proposed structures and improvements including their location on the land.
- E. *Condominium Unit*. That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed of the project, regardless of whether it is intended for residential, office, industrial, business, recreational or any other type of use approved by the Michigan Department of Commerce for such projects.
- F. *Consolidating Master Deed*. The final amended master deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space which final amended master deed fully describes the condominium project as completed.
- G. *Contractible Condominium*. A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to the express provisions in the condominium documents and in accordance with this Ordinance and the Condominium Act.
- H. *Limited Common Elements*. The portion(s) of the common elements reserved in the master deed of a condominium project for the exclusive use of less than all the owners of condominium units in the project.
- I. *Lot*. A single unit or division of land contained in a platted subdivision, whether it be numbered, lettered or otherwise designated, which has frontage on a public or private street or road.
- J. *Master Deed*. The legal document prepared and recorded pursuant to 1978 PA 59, as amended, within which are, or to which is attached as exhibits and incorporated by reference, the approved by-laws for the project and the approved condominium subdivision plan for the project.

175.005 - Compliance required.

Sec. V. All plats shall comply with the provisions of the Michigan Land Division Act (1967 PA 288, as amended), and with the provisions of this Ordinance. All site condominium developments shall comply with the provisions of the Michigan Condominium Act (1978 PA 59, as amended), and with the provisions of this Ordinance.

175.006 - Tentative approval of preliminary plat/site condominium plan (Step 1 approval).

Sec. VI.

- A. *Submission.* Every person, firm or corporation which shall hereafter submit a preliminary site condominium plan or preliminary plat plan to the Township Board for tentative approval shall submit at least four but not less than ten legible copies of said proposed preliminary plan. Said preliminary plan shall be prepared by a Registered Civil Engineer, Land Surveyor or other person authorized by law. Said copies must contain, at a minimum, the following information and fees:
1. Show relief of area proposed to be platted or developed as a site condominium with not more than four-foot contour intervals.
 2. Indicate road layout.
 3. Indicate lot or building site layout, showing size and shape of proposed lots or building sites, as well as any dedicated common open space.
 4. Indicate whether proposed plat or site condominium development will be served by public sanitary sewer and/or water system.
 5. Indicate the general location and size of any flood plain possibly located within the proposed plat or site condominium development.
 6. Indicate, in general, the methods for storm water disposal.
 7. When the proprietor owns or plans to acquire and anticipates platting adjoining land or making it into a Site Condominium Development, the proprietor shall submit with the preliminary plat/condominium plan for tentative approval, a tentative plan showing the feasibility of the development of such adjoining land.
 8. A fee established by resolution of the Pavilion Township Board pursuant to Section XIV [175.014] of this Ordinance.
- B. *Planning Commission Review.* Upon receipt of said proposed preliminary condominium plan or plat plan for tentative approval, the Township Clerk shall forward a copy of the same to the Township Planning Commission for its review of the plan for its compliance with the applicable standards set forth in Subsection "C" immediately below and for the Township Planning Commission's recommendation regarding the same. The Planning Commission may employ professional assistance to assist them in making such recommendation. The Planning Commission shall make its recommendation to the Township Board within 30 days of the Township's receipt of the plan.
- C. *Township Board Review.* After receipt of the Township Planning Commission's recommendation or the passage of 30 days from the Township's receipt of the plan (whichever occurs first), the Township Board shall examine said preliminary plan with such assistance and review by the Township Engineer, Township Planner or the Township Attorney as the Township Board shall require. The Township Board shall determine whether said proposed preliminary condominium plan or plat plan complies with all Township Ordinances and state statutes as well as makes adequate provision for the following:

1. *Streets.*

- a. Compliance with a major street thoroughfare plan adopted by the Township, if any.
- b. The arrangement of streets shall provide for a continuation of existing streets from adjoining areas into the new condominium project or plat.
- c. Where adjoining areas are not developed, the arrangement of streets in the proposed condominium project or plat shall be extended to the boundary line of the tract to make provision for the future projection of streets into the adjoining areas; provided, however, that minor streets within the development shall be so laid out that their use by through traffic will be discouraged.
- d. Where the proposed plat or site condominium development abuts or contains a County primary road or major thoroughfare, the Township Board may require that all buildings be setback from such primary road or major thoroughfare a distance of 100 feet from the road right-of-way. This is to minimize conflict with such road and allow for future improvements of infrastructure, including roadway or access lanes, public utilities and provision for non-motorized transportation (such as sidewalks or bikepaths). The intent is for the development to promote and not hinder the movement of traffic or pedestrians along this road frontage.
- e. Private streets and roads may be permitted in site condominiums where there is a master deed which establishes a homeowners association which will be responsible for all construction, maintenance, and repairs. All private roads shall be designed and constructed in accordance with the Road Commission of Kalamazoo County's standards for public roads.
- f. A plat or condominium project creating a total of 50 or more units must be developed so as to provide two or more access streets.

2. *Lots and building sites.*

- a. Lots and building sites shall be established in compliance with the minimum lot dimension provisions set forth in the Pavilion Township Zoning Ordinance.
- b. Corner lots generally should have extra width to permit appropriate building setback and the Township Board may require that such lots adhere to the front yard setback along both streets.

3. *General provisions.*

- a. Privately held reserve strips controlling access to streets shall be prohibited.
- b. Existing natural features which add value to residential development, that enhance the attractiveness of the community (such as streams, water courses, historic spots and similar irreplaceable assets) should be preserved insofar as possible in the design of the plat or site condominium development.
- c. Lands subject to flooding or otherwise determined by the Township Board to be uninhabitable should not be platted or condominiumized for residential, commercial or industrial purposes unless such lands within a plat or site condominium development are set aside for other purposes such as parks and/or open space.

4. *Township Board Decision.*

- a. The Township Board shall tentatively approve and note its approval on the copy of the preliminary plat plan or preliminary condominium plan, or tentatively approve it subject to conditions and note its approval and conditions on the copy of the preliminary plat plan or preliminary condominium plan, to be returned to the proprietor, or set forth in writing its reasons for rejection and requirements for tentative approval within the following time period as applicable:

- (i) Within 60 days after it was submitted to the Township Clerk if the development is a plat and a pre-application was held, or
 - (ii) Within 90 days after it was submitted to the Township Clerk if the proprietor did not specially request a pre-application review meeting.
- b. Tentative approval under this section confers upon the proprietor for a period of one year from the date of approval for purposes of lot sizes, lot orientation, street layout or similar site development based upon zoning or subdivision/site condominium ordinance provisions at the time of this approval. This tentative approval may be extended if applied for by the proprietor and granted by the Township Board in writing.

(Amended by: Ord. No. 167, § VI, 7-13-20)

175.007 - Final approval of preliminary condominium plan/preliminary plat plan (Step 2 approval).

Sec. VII.

- A. *Submission.* Every person, firm or corporation which shall hereafter submit copies of a proposed preliminary plat plan or preliminary condominium plan to the Township Board for final approval shall submit the relevant data and fees:
1. Evidence that all requirements imposed by the Township Board at the time of granting tentative approval have been incorporated into the proposed plan.
 2. Detailed working drawings showing grades, drainage structures, proposed utilities and road construction plans for public and/or private roads within and adjoining said condominium project or plat. Prior to submitting copies of the preliminary condominium plan or preliminary plat plan to the Township Board for final approval, the developer shall document consultation with all public utilities which will be servicing the development to resolve any conflicts in location between public utility facilities and other improvements.
 3. A fee established by resolution of the Pavilion Township Board pursuant to Section XIV [175.014] of this Ordinance.
 4. Certifications of statutorily required governmental agency approvals, including, if individual sewage disposal systems are proposed and public sewage facilities are not reasonably available, certification from the Kalamazoo County Human Services Department as to the suitability of the land included in the development for the use of septic tank, dry wells and tile fields.
- B. *Standards for Approval.* Upon receipt of all required copies of the preliminary condominium plan or preliminary plat plan for final approval, the Township Board shall examine the same with such assistance and review by the Township Engineer, Township Planner or Township Attorney as said Township Board shall request. Upon completing its review, the Township Board shall determine whether said plat plan or condominium plan complies with the requirements imposed by it at the time of tentative approval, has obtained the required statutory approval of other governmental agencies and, in addition, meets the following requirements:
1. Connection to sanitary sewers and/or water mains may be required by the Township Board when the Township Board determines, in its discretion, that said sewers and/or water mains are reasonably available to the proposed development.
 2. In the discretion of the Township Board, the proprietor shall make arrangements for all distribution lines of telephone, electric, television and other similar services distributed by wire or cable to be placed underground entirely throughout the residential area. Electric distribution lines shall be defined in accordance with the rules and regulations promulgated by the Michigan Public Service Commission. Such

conduits or cables shall be placed within private easements provided to such service companies by the proprietor or within dedicated public ways. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission. Private easements for underground utilities shall be shown on the preliminary plan.

3. No land within the development may be isolated from a public highway, nor may any adjoining land of the proprietor or others be isolated from a public thoroughfare thereby creating land-locked parcels.
 4. Street lighting may be required by the Township Board when the Board determines that street lighting is necessary or desirable for public health, safety and welfare.
 5. Sidewalks may be required by the Township Board when the Township Board determines, in its opinion, that sidewalks are necessary for pedestrian safety, public health and welfare. When required, sidewalks shall be constructed of concrete four feet in width, four inches in depth, upon a two-inch minimum sand base with expansion joints set at a minimum of 50 feet; sidewalks built across driveways shall be constructed of concrete six inches depth.
- C. *Approval.* If the Township Board determines that the preliminary plat plan or preliminary condominium plan has obtained the required statutory approval of other governmental agencies and complies with the requirements set forth above in this Ordinance, the Township Board shall, at its next regular meeting following plan submission or within 20 days from the date of submission, grant final approval of the preliminary plan which shall confer upon the proprietor for a period of two years from date of approval the conditional right that the general terms and conditions under which said approval was granted will not be changed. Said two-year period may be extended in the discretion of the Township Board upon application by the proprietor.

175.008 - Final approval of final condominium plan/plat plan (Step 3 approval).

Sec. VIII.

- A. *Submission.* Every person, firm or corporation which shall hereafter submit a proposed final plat or site condominium plan to the Township Board for final approval shall also submit the following relevant data and fees:
1. An abstract of title or title insurance policy showing merchantable title in the proprietor of the proposed final plat or site condominium.
 2. A fee established by resolution of the Pavilion Township Board pursuant to Section XIV [175.014] of this Ordinance.
 3. A digital copy of the final plat or site condominium plan in an AutoCad (.dwg) or .DXF format on a disk, CD or through e-mail to the Township. Each digital copy shall show a minimum of two ties to government section corners. Each digital copy shall include at a minimum the following information: Lot or unit numbers, street names, easements, lot lines, section lines and corners, utility lines, right-of-ways, adjoining plat boundaries or any other dimensions or information related to site development.
- B. *Standards for Approval.* The Township Board shall, at its next regular meeting or within 20 days from the date of submission, review the proposed final plat or site condominium plan and grant final approval if it determines that all of the following have been satisfied:
1. All monuments required to be placed in the plat or condominium project have either been placed or a cash or equivalent deposit has been made with the Township and a Deposit Agreement executed by the proprietors.

2. All roads, streets, bridges and culverts have been completed and installed or a cash or equivalent deposit has been made with the Township and a Deposit Agreement executed by the proprietors.
3. If the plat or condominium project has any waterways or lagoons, etc., that all such waterways, etc., shall be installed or a cash or equivalent deposit made to the Township and a Deposit Agreement executed by the proprietors.
4. If any flood plains are involved in the proposed plat or condominium project, then such flood plains shall be restricted as provided by the Land Division Act or the Condominium Act, and such restrictions shall be submitted to the Township Board for review and approval prior to recording and thereafter shall be recorded in the Office of the Register of Deeds as part of the Plat or Master Deed or contemporaneously with the recording of the Master Deed.
5. All utilities servicing the plat or condominium project have been installed and water and sanitary sewer mains have been stubbed to the lot line or building site line or a cash or equivalent deposit has been made with the Township Board in an amount sufficient to insure completion thereof within the time specified and a Deposit Agreement executed by the proprietors.
6. All underground utility installations, including lines for street lighting systems, which traverse privately owned property shall be protected by easements granted by the proprietor and approved by the public utility. These easements shall be recorded as part of the Plat or Master Deed as private easements for public utilities or easements provided by separate instrument. Easements across lots or centered on rear or side lot lines provided for utilities shall be at least 12 feet wide, usually six feet dedicated from each lot or parcel except side lot easements three feet wide granted for street lighting dropouts. These easements shall be direct and continuous from block to block.
7. All public improvements, such as street lights, fire hydrants, sidewalks, parks, etc., which have been required by the Township Board, have been completed and installed and reviewed and approved by an engineer or a cash or equivalent deposit has been made with the Township sufficient in amount to ensure completion within the time specified and a Deposit Agreement executed by the proprietors.
8. The proposed final plat or condominium plan complies with all applicable state statutes and Township Ordinances and has received the requisite statutory approval of other governmental agencies.
9. That the Plat or Master Deed is executed by all required owners, has been properly recorded and has been filed with the Township before issuance of any building permits.

175.009 - Failure to complete a public improvement.

Sec. IX. In the event the developer shall, in any case, fail to complete such work within such period of time as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the Township Board to proceed to have such work completed. In order to accomplish this, the Township Board shall reimburse itself for the cost and expense thereof by appropriating the security deposit which the developer has deposited with the Township or it may take such steps as may be necessary to require performance in accordance with the Deposit Agreement executed by the proprietors.

175.010 - Building site/subdivision.

Sec. X. After a plat or site condominium development has been recorded, platted lots/building sites may thereafter be partitioned or divided with the approval of the Township Board into not more than four parts, provided that the resulting lots or building sites or combinations of two or more divided lots or building sites shall comply with the minimum lot size and width

requirements in the Pavilion Township Zoning Ordinance and provided further that such resulting lots or building sites shall each have direct access to a public roadway or private roadway constructed to the standards of this Ordinance, and also to public utilities necessary or required to service such lots or building sites, and provided further, that all such resulting lots or building sites shall conform in all particulars to the requirements of all applicable statutes and Township Ordinances.

175.011 - Variance procedure.

Sec. XI. Where there are practical difficulties or unnecessary hardships in carrying out the strict letter of this Ordinance, the Township Board shall have power in passing upon proposed condominium or plat projects to modify any of the terms and provisions of this Ordinance so that the spirit of the Ordinance shall be observed and public health, safety and welfare secured.

175.012 - Penalties and enforcement.

Sec. XII. Violation of any of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 90 days or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Township Board or public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this Ordinance.

This Ordinance shall be enforced by the Township Supervisor in addition to other persons designated by the Township Board.

175.013 - Amendments.

Sec. XIII. All amendments to the plat or site condominium plan, other than building site/lot divisions approved under Section X [175.010] above, shall be submitted for review and approval under Sections VI [175.006], VII [175.007] and VIII [175.008], above.

175.014 - Fees.

Sec. XIV. The Pavilion Township Board is hereby given the authority to establish by Resolution at any public meeting a schedule of fees for the administering of this Ordinance, provided that the same are reasonable and bear a reasonable relationship to the cost and expense of such administration and activity. The Township Board shall further have the right to amend the aforementioned Resolution from time to time within the foregoing limits of reasonableness.

175.015 - Severability.

Sec. XV. Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part declared to be invalid.

175.016 - Repeal.

Sec. XVI. This action shall repeal the Pavilion Township Subdivision Ordinance (Ordinance #32), adopted by the Pavilion Township Board of Trustees on October 12, 1970. All other Ordinances or parts of Ordinances in conflict herewith are also hereby repealed.

175.017 - Effective date.

Sec. XVII. This Ordinance shall take effect thirty (30) days following publication, after adoption by the Township Board of Trustees.

Part 176

176.000 - LAND DIVISION ORDINANCE Ord. No. 110 Adopted: March 25, 1997

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

TOWNSHIP OF PAVILION KALAMAZOO COUNTY, MICHIGAN, ORDAINS:

176.001. - Title.

Sec. 1. This ordinance shall be known and cited as the Pavilion Township Land Division Ordinance.

176.002 - Purpose.

Sec. 2. The purpose of this ordinance is to carry out the provisions of the State Land Division Act (1967 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.

176.003 - Definitions.

Sec. 3. For purposes 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 holds 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 thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than [forty] 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 parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.
- D. *"Forty acres or the equivalent"* - either [forty] 40 acres, a quarter-quarter section containing not less than [thirty] 30 acres, or a government lot containing not less than [thirty] 30 acres.

176.004 - Prior approval requirement for land divisions.

Sec. IV. Land in the township shall not be divided without the prior review and approval of the township assessor, or other official designated by the governing body, in accordance with this ordinance and the State Land Division Act; provided that the following shall be exempted from this requirement:

- A. A parcel proposed for subdivision through a recorded plat pursuant to the township's Subdivision Control Ordinance and the State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the township's Subdivision Control Ordinance and the State Land Division Act.
- C. An exempt split as defined in this Ordinance.

176.005 - Application for land division approval.

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

- A. A completed application form on such form as may be provided by the township.
- 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 PA 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and 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 parcels for vehicular traffic and utilities from existing public roads.

In lieu of such survey map, at the applicant's option, the applicant may waive the [thirty] 30 day statutory requirement for a decision on the application until such survey map and legal description are filed with the township, and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the locally designated official prior to a final application under Section V [176.005].

The township assessor or other official designated by the township, may waive the survey map requirement where the foregoing tentative 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 divisions are located. An accurate legal description of all the proposed divisions, however, shall at all times be required.

- D. Proof that all standards of the State Land Division Act and this Ordinance have been met. (See checklist 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 assessments-pertaining to the land proposed to be divided are 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 [176.007] of this Ordinance, proof that all divisions shall result in "buildable" parcels containing sufficient "buildable" area outside of unbuildable 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, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer service is not available), and maximum allowed area coverage of buildings and structures on the site.
- I. The fee to cover the costs of review of the application and administration of this ordinance and the State Land Division Act may be established by resolution of the township.

176.006 - Procedure for review of applications for land division..

Sec. VI.

- A. Upon receipt of a complete land division application package, the township assessor or other designee shall within [thirty] 30 days:
1. Approve the application.
 2. Approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare.
 3. *Disapprove the land division.* The township shall promptly notify the applicant of the decisions and the reasons for any denial. If the application package does not conform to this and all other applicable Ordinance requirements and the State Land Division Act, the assessor or other designee shall return the same to the applicant for completion and refiling in accordance with this Ordinance and the State Land Division Act.
- B. Any person or entity aggrieved by the decision of the assessor or designee may, within [twenty-eight] 28 days of said decision appeal the decision to the township board or such other board or person designated by the governing body which shall consider and resolve such appeal by a majority vote or said Board or by the designee at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.
- C. A decision approving a land division is effective for [sixty] 60 days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and filed with the township assessor or other designated official accomplishing the approved land division or transfer.
- D. The township assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.

176.007 - Standards for approval of land divisions.

Sec. VII. 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 applicable zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum set-backs for existing buildings/structures.
- B. The proposed land division(s) comply with all requirements of the State Land Division Act and this ordinance.
- C. All parcels created and remaining have existing adequate accessibility, or an area available therefor, 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, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create [four] 4 or more parcels.

- D. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-buildable parcels created under Section VIII of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio. The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the center of the 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 shall be as defined in the applicable zoning ordinance.

- E. In the absence of applicable zoning or other ordinances providing a different standard, all parcels created by a land division shall comply with the following minimum standards: Where accessibility is to be provided by a proposed new dedicated public road, proof that the 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.

176.008 - Allowance for approval of other land divisions.

Sec. VIII. Notwithstanding disqualification from approval pursuant to this ordinance, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the applicable 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 County Register of Deeds, in a form acceptable to the township, designating the parcel as "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 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 the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance, any applicable zoning ordinance, or the State Land Division Act.

176.009 - Consequences of noncompliance with land division approval.

Sec. IX. 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 [176.010] of this ordinance, and as may otherwise be provided by law.

176.010 - Penalties and enforcement.

Sec. X. Any person who 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 [five hundred dollars] \$500.00 or by imprisonment in the county jail for not to exceed [ninety] 90 days or by both such fine and imprisonment.

Any person who 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.

176.011 - Severability.

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

176.012 - Repeal.

Sec. XII. 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 township zoning ordinance, the Township Subdivision Control Ordinance, or the Township Building Code.

175.013 - Effective date.

Sec. XIII. This ordinance shall take effect [thirty] 30 days following its publication after adoption.

Part 177

177.000 - ESCROW FEES Ord. No. 120 Adopted: May 8, 2000

THE TOWNSHIP OF PAVILION, KALAMAZOO COUNTY, MICHIGAN ORDAINS:

177.001 - Title.

Sec. I. This Ordinance shall be known as the Escrow Fee Ordinance of Pavilion Township.

177.002 - Purpose.

Sec. II. The cost of Township review of applications for zoning approval or other land use changes can be considerable, can differ greatly between different applications and cannot always be accurately predicted at the time the application is made.

This Ordinance is to establish a policy whereby an applicant for zoning approval or other land use changes, deposits funds with the Township to reimburse actual costs of the consideration of the review.

The actual cost of review should properly be borne by the applicant.

177.003 - Stated fees.

Sec. III. The stated fees for applications for zoning approvals, established by resolution of the Township Board from time to time, are to be considered basic application fees which cover only consideration of the application at regularly scheduled Planning Commission, Zoning Board of Appeals, and/or Township Board meetings and the preparation, publication and mailing of notice of hearing, as applicable.

177.004 - [Costs of review of applications].

Sec. IV. In addition to the basic application fee, applicants for zoning approval shall pay the costs of review of applications for administrative appeals, variances, special use permits, site plans, rezoning, planned residential developments, subdivisions, site condominiums, and similar requests. Such charges shall be in addition to the basic application fee, in an amount equal to the Township's actual expenses incurred for reviewing the application including but not limited to the cost of:

- A. Planning Commission subcommittee meetings;
- B. Special meetings;
- C. Review by Township attorney and preparation of appropriate approving resolutions or ordinances;
- D. Review by Township planner;
- E. Review by Township engineer;
- F. Additional notices of public hearing;
- G. Traffic studies;
- H. Environmental impact studies;
- I. Notice of additional hearings; and
- J. Similar services and expenses.

177.005 - [Escrow fee—Initial deposit].

Sec. V. If the Planning Commission Chair determines that the application is one for which such costs for review are likely to be incurred, the Planning Commission Chair shall require the applicant to pay into escrow, in advance, an amount estimated to be sufficient to cover the expected costs. The amount to be paid into escrow shall be established in increments of at least \$500.00, commencing with an initial deposit of not less than \$500.00. No application shall be processed prior to the required escrow fee having been deposited with the Planning Commission Chair. If an applicant objects to the amount of the escrow funds required to be deposited, it may appeal that determination to the Township Board within 30 days after the initial decision by the Planning Commission Chair.

177.006 - [Escrow fee—Additional deposit].

Sec. VI. If funds in the escrow account are depleted, the applicant shall make an additional deposit sufficient to cover any deficit and to re-establish a balance of at least \$500.00. The amount of additional deposit sufficient to cover any deficit in the account shall be at least \$500.00, or such greater amount as is determined by the Planning Commission Chair to be reasonably necessary in order to cover anticipated remaining or future expenses. No further action shall be taken on an application until the escrow account has been reestablished to such appropriate level, as determined by the Planning Commission Chair.

177.007 - [Expenditures from escrow account].

Sec. VII. The Planning Commission Chair shall maintain accurate records regarding the expenditures made on behalf of each applicant from the escrow account. Such escrow funds (from one or more applicants) shall be kept in a separate bank account or bank account category.

177.008 - [Excess funds in escrow account].

Sec. VIII. Any excess funds remaining in the escrow account after the application has been fully processed, reviewed and the final decision has been rendered regarding the project will be refunded to the applicant within 14 days of the rendering of the final decision with no interest to be paid on those funds. If the balance of the expenses for the application for any reason

exceeds the amount remaining in escrow following final action by the Township, the Township shall send the applicant a statement for such additional fees. Until the applicant pays such fees for the expenses of review, no further building permit or certificate of occupancy or other permit for the project shall be issued, and if such expenses remain unpaid for a period of 14 days, the Township Planning Commission Chair or building official may issue appropriate stop work orders or take other action to halt work on the project. In addition, the Township may take legal action to collect unpaid fees.

177.009 - [Agreement to pay Township's expenses.]

Sec. IX. The application for zoning approval or other approvals covered by this Ordinance shall indicate that the applicant agrees to pay the Township's expenses for review of the application and other above-stated expenses.

Part 200

200.000 - ZONING ORDINANCE Ord. No. 91 Adopted: February 12, 1990

BE IT ORDAINED BY THE TOWNSHIP BOARD OF THE TOWNSHIP OF PAVILION, IN THE COUNTY OF KALAMAZOO COUNTY, IN THE STATE OF MICHIGAN THAT THE PAVILION TOWNSHIP ZONING ORDINANCE IS AMENDED AND/OR CREATED TO READ AS FOLLOWS:

An Ordinance to regulate and restrict the use of land and buildings by dividing the Township of Pavilion into districts; defining certain terms used therein; imposing regulations, prohibitions and restrictions governing the erection, construction or reconstruction of structures and buildings and lands to be used for the purposes of agriculture, residence, commerce, industry and other specified purposes; regulating and limiting the height and bulk of buildings and other open spaces, establishing the boundaries of districts; creating a board of appeals, defining and limiting the powers and duties of said board and setting standards to guide actions of said board and providing the means of enforcing said Ordinance and providing a penalty for violation of said Ordinance.

Footnotes:

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Cross reference— *Liquor licenses, § 15.002; motor vehicle storage and repair, §§ 45.004 2., 3.; dumping ground, § 110.002(a); litter, §§ 111.003(3), (4); building code, Pt. 145; mobile home registry and inspection, Pt. 151; subdivision, Pt. 175.*

ARTICLE I

200.100 - TITLE, PURPOSE, RESOLUTION

200.101 - Title.

Sec. 1. This Ordinance shall be known and may be cited as "The Zoning Ordinance of Pavilion Township."

200.102 - Purpose.

Sec. 2. In the interest of the public health, safety, and general welfare, the purpose of this Zoning Ordinance is to prevent the overcrowding of land and buildings, avoid undue concentration of population, provide adequate light and air with due consideration to the character of the zone and its peculiar suitability for particular uses, and with the objective of conserving the value of property and encouraging the most appropriate use of the land. Therefore,

200.103 - Resolution.

Sec. 3. Be it ordained the Pavilion Township Board pursuant to the provisions of the State of Michigan Zoning Enabling Act (2006 P.A. 110) as may be amended, that the Ordinance heretofore enacted as the Zoning Ordinance of Pavilion Township is for; the establishment of zoning districts within which districts the use of land for agriculture, recreation, residence, industry, trade, soil conservation, water supply conservation and additional uses of land may be encouraged, regulated, or prohibited, and for such purposes may divide portions of Pavilion Township into districts of such number, shape and area as may be deemed best suited to carry out the provisions of the Act; and to adopt within each district provisions designating and limiting the location, height, size and number of stories of dwellings, buildings, and structures that may hereafter be erected, altered, or placed and the specific uses for which dwellings, buildings, and structures, may hereafter be erected, or altered; and for the regulation of the area of yards, courts, and other open spaces and the sanitary, safety, and protective measures that shall be required for such dwellings, buildings, and for the designation of the maximum number of families which may be housed in buildings, dwellings, and structures, hereafter erected, or altered, to provide for a method of amending said Ordinance; to provide for the repeal of the Pavilion Township Zoning Ordinance adopted on July 9, 1956 as subsequently amended, to provide for the administering of the Ordinance; to provide for conflicts with other acts, Ordinances, or regulations; to provide for the collection of fees for the furtherance of the purpose of this Ordinance; to provide for petitions and public hearings; to provide for appeals and for the organization and procedure of the Pavilion Township Board of Appeals; and to provide for penalties for the violation of said Ordinance.

Anything not legal under the previous Ordinance shall not be made legal by the adoption of this Ordinance.

(Ord. No. 139, § 3, 9-8-06)

ARTICLE II

200.200 - DEFINITIONS

200.201 - Definitions.

Sec. 4. Words used in the present tense include the future; words in the singular number include the plural number; the word "shall" is mandatory. For the purpose of these regulations, certain terms and words are defined as follows:

1. *Accessory buildings or uses.* A use of a building, lot or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot, [which] does not include agricultural buildings. (See Building, Accessory)
2. *Agribusiness.* Those businesses that are related to, but not necessarily restricted to, agriculture.
3. *Agriculture.* The use of land for raising crops and livestock, including poultry, and the sale thereof.
- 3A. *Agritainment.* Events and activities such as but is not limited to corn mazes, hay rides, and petting zoos, that allow for recreation, entertainment, and tourism in conjunction with agriculture support and services directly associated with on-going agricultural activity on-site.
- 3B. *Agritourism enterprise.* Activities conducted on a working farm and offered to the public or to invited groups for the purpose of recreation, education, or active involvement in the farm operation. These activities must be related to agriculture or natural resources and incidental to the primary operation on the site. This term includes but is not limited to farm tours, hayrides, corn mazes, classes related to agricultural products or skills, picnic and party facilities offered in conjunction with the above, and similar uses.

4. *Animal*. An organism, other than a human or plant, that is characterized into one of the following three categories:
 - 1) *Domestic*: This category would typically include those animals that have adapted well to human interaction, primarily excluding those utilized for production of food products. These would include those animals residing within the dwelling as pets, such as dogs, house cats, and certain types of other small domesticated animals (such as birds and reptiles), but excluding those listed in either the livestock or exotic categories. Such animals are deemed not to be a threat to humans, are nonpoisonous or not carriers of disease and/or not likely to bite without provocation (or appropriately caged), and in good health. The keeping of four or more of these domesticated animals, excluding those within the first six months of birth produced by an existing pet, shall be subject to regulation as a commercial kennel.
 - 2) *Livestock*: This category would typically include those other domesticated animals that are primarily utilized for the production of food or are in the large animal category. These would include those animals that are presently listed under the classification of animal units associated with livestock operations. This includes cattle, swine, horses, sheep, goats, turkeys, chickens and ducks. Similar animals raised for pleasure or profit, such as ostrich or llamas, may also be included in this category. The keeping of livestock shall require a minimum parcel area of one acre or more, depending upon the number of animal units.
 - 3) *Exotic*: This category would typically include all other animals but can be further differentiated as either being native or non-native. In Michigan, native animals may include those found in the wild throughout the State or within some small areas. Some of these animals may be endangered or on a protected list (cannot be hunted), while others may be subject to game laws with duration of the hunting season limited by the State of Michigan Department of Natural Resources. Non-native would include those not found in Michigan. This category of animal is only permitted within zoological parks or similar wildlife preserves.

5. *Animal unit*:

| | |
|---------------------------|-------------------|
| Cattle (feeder and dairy) | 1.00 |
| Calves | 0.50 (0—500 lbs.) |
| Horses | 1.00 |
| Swine | 0.50 |
| Feeder pigs | 0.25 (0—75 lbs.) |
| Sheep and goats | 0.50 |
| Poultry and fowl | 0.01 |

6. *Apartment house*. A building used and/or arranged for rental occupancy, or cooperatively owned by its occupants, having three or more family units, and with a yard, compound, service, or utilities in common.
7. *Barn*. An enclosed building which is located on a farm and used either for the shelter of farm animals, storage of farm produce and/or equipment.

8. *Basement.* That portion of a building below the first floor joists, at least half of whose clear ceiling height is above the level of the adjacent ground, [which] may be used for habitation.
9. *Boardinghouse.* A dwelling in which lodging or meals, or both, are furnished to three or more guests for compensation.
10. *Building.* A structure with a roof designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.
11. *Building, accessory.* A building subordinate to, and located on, the same lot with a main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main building. Accessory buildings include detached garages, which may not exceed a building height of 14 feet, sheds, which may not exceed 120 square feet, or other detached buildings intended for storage purposes. Mobile homes, semi-trailers or similar enclosures may not be utilized as accessory buildings.
12. *Building height.* The vertical distance measured from the average grade at the building to the average elevation of the roof of the highest story.
13. *Building line.* A line beyond which the foundation wall or any enclosed porch, vestibule or other portion of a building shall not project. Roof may project two and one-half feet beyond the building line.
14. *Campground.* A parcel or tract of land under the control of any person wherein sites are offered for use by the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for five or more recreational units.
15. *Care home.* (see group care facility) State licensed rest and nursing homes, convalescent homes and boarding homes; established to render nursing care for chronic or convalescent patients but excludes facilities for care of violent patients. The number of occupants of a care home and the distance between care homes (1,500 feet minimum) shall be limited as required by State law.
16. *Cellar.* That portion of a building below the first floor joists at least half of whose clear ceiling height is below the average level of the adjacent ground. Such a portion of a building shall not be used for habitation. See "Earth Sheltered Home."
17. *Collection station.* See "Transfer Facility."
- 17A. *Common element.* An unoccupied or open space area within a condominium project, a site condominium subdivision or a planned unit development that is reserved for the enjoyment of all residents (a general common element) or for the benefit of some residents (a limited common element) and maintained by those residents through associations.
- 17B. *Condominium unit.* That portion of a condominium project or site condominium subdivision that is designed and intended for separate ownership and use, as described in the Master Deed. The term "condominium unit" shall be considered the equivalent to the term "dwelling unit".
18. *Day care home.* State licensed homes for temporary (not overnight) residence. The number of care residents and the distance between facilities shall be limited as required by State law.
19. *District.* An area within which certain uses of land and buildings are permitted and all others are prohibited; yards and other open spaces are required; lot areas, building height limits, and other requirements are established; all of the foregoing being identical for the district in which they apply.
20. *Dock.* A platform, either permanent or portable, extending over a body of water, from which one can fish, swim, moor or board boats.
21. *Dwelling.* A building or portion thereof arranged or designed to provide living facilities for one or more families.

See section 14. [Note: section 14 is now [section 200.501](#)]

22. *Dwelling, single family.* A building containing not more than one dwelling unit.
23. *Dwelling, two family.* A building containing not more than two separate dwelling units.
24. *Dwelling, multiple-family.* A building containing three or more dwelling units, (an apartment house).
25. *Dwelling unit.* A building or portion thereof arranged or designed for permanent occupancy by not more than one family for living purposes and having cooking facilities.
26. *Dump.* (See "Landfill")
27. *Earth sheltered home.* A dwelling in which more than one-half of the clear ceiling height of the top floor is below the average level of the adjacent ground and in which the building code requirements for ventilation, light and window area are satisfied.
- 27A. *Event barn.* A pre-existing barn formerly used for agricultural purposes which has been renovated for seasonal use as a venue for gatherings such as weddings, private parties, meetings and similar events.
28. *Excavations, commercial (mining).* The permanent removal of soil, sand, gravel, rock, minerals, clay or other earthen material from a land surface. When primarily for carrying on a business or manufacturing operation for the purpose of sale, exchange, processing or manufacture. Does not mean grading or filling incidental to the improvement of the land.
29. *Facilities and services.* Those facilities and services that are normally accepted as necessary for urban living such as paved streets, public and/or private water supply and sanitary sewer systems, storm drainage systems, schools, parks and playgrounds.
30. *Family.* One or more persons living as a single, non-profit housekeeping unit as distinguished from individuals or groups occupying a hotel, club, fraternity or sorority house. The family shall be deemed to include necessary servants when servants share the common housekeeping facilities and services.
31. *Farming.* Agricultural activity or the raising of livestock or poultry as a source of income.
32. *Feedlot.* An enclosed area occupied by a high concentration of livestock.
33. *Floor area.* The total enclosed floor area of a structure excluding the floor area of uninhabitable basements, cellars, garages, accessory buildings, attics, breezeways and porches.
34. *Frontage.* [Deleted by Ordinance No. 136, adopted July 11, 2005.]
35. *Front yard.* (See "Yard")
36. *Garage.* Enclosed structure intended primarily for storage and shelter of one or more vehicles.
37. *Gasoline service station.* Building or lot, or portions thereof, used and limited in function to retail sale of gasoline, oil, grease, anti-freeze, tires, batteries and automobile accessories, and such services as lubrication, washing, polishing and other minor servicing to motor vehicles.
38. *Group care facility.* A facility to provide services to two or more individuals who may be unrelated and are handicapped, aged or disabled and are undergoing rehabilitation to meet their individual needs. A group care facility may provide resident quarters which are licensed or supervised by the State of Michigan.
39. *High water line.* That elevation of a body of water where it borders the land, which is either officially recorded or reasonably identified as the known high water elevation.
40. *Home occupation.* An occupation customarily engaged in by residents in their own dwelling, (see section 9.5). [Note: section 9.5 is now section 200.65]
41. *Hospital.* Any institution, including a sanatorium, which maintains and operates facilities for overnight care and treatment of two or more non-related persons as patients suffering mental or physical ailments, but not

including any dispensary or first aid treatment facilities maintained by a commercial or industrial plant, educational institution, convent, or a convalescent home, as previously defined.

42. *Hotel*. A building occupied as a more or less temporary abiding place of individuals who are lodged with or without meals, in which as a rule the rooms are occupied singly for hire, in which provision is not made for cooking in any individual apartment, except for the management.
43. *Industry, light*. A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing.
44. *Intensive livestock operation*. Any farm or farm operation engaged in raising, breeding, or feeding of livestock or poultry in concentrations of three hundred or more animal units.
45. *Junk yard*. Any land or building used for commercial, storage and/or sale of paper, rags, scrap metals, other scrap or discarding materials, or for the dismantling, storage or salvaging of automobiles or other vehicles not in running condition, or of machinery or parts thereof, but not to be used as a dump.
46. *Kennel*. Any lot or premises used for the keeping, boarding, breeding, or training of four or more dogs over the age of six months with or without remuneration. For recorded plats see section 16.A. [Note: section 16.A is now [section 200.611](#)]
47. *Lake lots, front yard*. Open space extending along the full width of the lot between the principal building and the high water line of the adjoining lake.
48. *Lake lots, rear yard*. Open space extending along the full width of the lot between the principal building and the street right-of-way line of the street used for the purpose of assigning official street address numbers to the structure.
49. *Landfill*. Any premises used primarily for disposal by abandonment, discarding, dumping, reduction, burial, incineration, or any other means and for whatever purpose of trash, refuse or waste material of any kind.
50. [Deleted by Ord. No. 143, adopted November 12, 2007.]
51. *Lot*. Land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Ordinance for a lot in the district in which such lot is situated, and having the required frontage on a street. (See lot of record)
52. *Lot area*. The total horizontal area included within lot lines. Where the front lot line is the center line of a street or lies in part or in whole in the street area, the lot area shall not include that part of the lot in use or to be used as the street.
53. *Lot, depth of*. The average horizontal distance between the front lot line and rear lot line.
54. *Lot, front of*. The side or sides of an interior or through lot which abuts a street; in a corner lot, the side or sides abutting either street may be considered as the front lot line provided that the side selected as the front has the required minimum lot frontage.
55. *Lot frontage*. That portion of the lot extending along the street line. In odd-shaped or triangular-shaped lots the length of the lot at the street line may be reduced, provided the required lot frontage is achieved at the required front yard setback line.
56. *Lot of record*. A lot, the dimensions and configuration of which are shown on a map recorded in the office of Register of Deeds of Kalamazoo County or a lot or parcel described by meets and bounds and likewise so recorded in the office of the Register of Deeds. A lot of record shall be deemed a buildable lot provided the

construction complies with minimum setbacks and maximum building coverage for the zoning district in which the lot is located.

57. *Lot, interior.* A lot other than a corner lot.
58. *Lot width.* The minimum required width of the lot, measured at either the street line or at the required front yard setback line.
59. *Manufactured home.* A structure, transportable in one or more sections which is built and is designed to be used as a dwelling with a permanent foundation and meets all applicable building codes.
- 59A. *Master deed.* The condominium document recording the condominium project or site condominium subdivision as approved by the Township. Such master deed shall be attached as an exhibit to the site plan or subdivision plan and incorporated by reference in the approved bylaws for the project or subdivision.
60. *Migrant worker.* Any person working on a farm pursuant to a permit issued by the State of Michigan.
61. *Mobile home.* "Mobile home" means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.
62. *Mobile home park.* A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual nonrecreational basis and 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 incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.
63. *Mobile home site.* The entire area which is designated for use by a specific mobile home.
64. *Motel.* A group of attached or detached dwellings not more than two stories in height containing guest rooms which are provided for transient occupancy only, including auto courts, motor lodges and tourist homes.
65. *Non-conforming uses.* The use of a building or of land lawfully existing at the time this Ordinance became effective but which does not conform with the present use regulations of the district in which it is located.
66. *Nursing home.* An establishment or institution, other than a hospital, having as one of its functions the rendering of healing, curing or nursing care for periods of more than twenty-four hours to individuals afflicted with illness, injury, infirmity or abnormality.
67. *Parking space, automobile.* That area required for the parking or storage of one automobile. Not less than 200 square feet with a minimum width of nine feet. Topsoil must be removed and a stable drained surface must be provided.
- 67A. *Planned unit development (PUD).* A PUD is a special exception use that provides for flexibility in the design and layout while adhering to the density established by the lot area requirements for the district in which it is approved. A condominium project may be established under planned unit development.
- 67B. *Planning Commission.* Pavilion Township Planning Commission.
68. *Plat.* A recorded and approved subdivision of land.
- 68A. *Private road.* [Deleted by Ordinance No. 136, adopted July 11, 2005.]
69. *Rear yard.* (See "Yard")
70. *Recreational vehicle.* A vehicle primarily designed and to be used as temporary living quarters for recreational, camping or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

70A. *Residential care facilities.* Homes or care facilities providing care services on a part-time or full-time basis. Such uses established as permitted or special uses based upon their compatibility with uses in those individual zoning districts; licensing requirements as follows:

Family care homes: Includes child day care, child foster care and adult day care for six or fewer individuals within a residential setting. Such use is considered a permitted use in any district that permits single family dwellings, subject to definition and state licensing requirements. No non-resident employees are permitted and such use shall operate less than 12 hours per day.

Group care homes: Includes group day care and group foster care for between seven and 12 children within a residential setting. Such use shall be established as a special use, or as a permitted use subject to the same conditions and meet state licensing requirements. A resident employee is required and no more than one non-resident employee is permitted. Such use shall operate less than 24 hours per day.

Limited residential care facilities: Includes all other adult foster care and child day care and child foster care for up to 25 individuals, subject to state licensing requirements. This would include nursing homes, assisted living facilities and senior housing for up to 25 people. It is anticipated that these facilities would operate 24 hours per day and would include non-resident employees. Such facilities should be located within high density residential or office/business settings.

Full residential care facilities: Includes commercial day care centers, nursing homes, assisted living facilities or other congregate care and/or senior housing facilities. Such use shall be considered a commercial use and include part-time and full-time staff and/or access to medical staff.

This definition shall include and regulate unlicensed residential facilities and those licensed by the State of Michigan. It does not include facilities providing treatment, such as substance abuse, or rehabilitation, such as halfway houses, or other uses regulated by the Department of Corrections.

71. *Road.* (See "Street")
72. *Shelter, fall-out.* A structure or portion of a structure intended to provide protection to human life during periods of danger to human life from nuclear fall-out, air raids, storms, or other emergencies. Fall-out shelters constructed completely below the ground level, except for a vent not exceeding thirty inches in height above ground level, may be contained within any yard area.
73. *Shopping center.* A group of five or more commercial establishments planned, developed and managed as a unit, with off-street parking provided on the same property and related in location, size and type of shops in the center.
74. *Sign.* Any structure, part thereof, or device attached thereto or painted or represented thereon or any material or thing, which displays numerals, letters, words, trademark or other representation used for direction, or designation of any person, firm, organization, place, product, service, business, or industry which is located upon any land, on any building, in or upon a window, or indoors in such a manner as to attract attention from outside the building, or in or on any vehicle. A permit is required before the placement of a sign over two square feet in size [is made] within the Township.
75. *Sign area.* The sign area is the surface of the structure used to convey the message exclusive of the necessary supports or any appurtenances required by the building code. The area of open sign structures, consisting of letters or symbols without a solid surface in-between, shall be calculated on the basis of the total area within the perimeter of the group of letters and/or symbols. The area of a double face sign, which is constructed back to back as a single unit, shall be calculated according to the surface area of one side only.

76. *Sign outdoor advertising.* A sign which calls attention to a business, commodity, service, entertainment, or other activity, conducted, sold, or offered elsewhere than on the premises upon which the sign is located.
- 76A. *Site condominium.* The term "site" shall be considered the equivalent of the term "lot" for purposes of determining the design and layout of a condominium project or site condominium subdivision. A site condominium project may be approved as a PUD through the special exception use process, including site plan review, or as a site condominium subdivision through the Township's Subdivision Control Ordinance. In this latter instance, the process of final approval of the plat by the State of Michigan shall be replaced with the recording of the Master Deed.
77. *Special exception (special land use).* The granting to a petitioner, by the Planning Commission, certain uses of land and/or buildings, because of their particular nature and due to certain circumstances, to become established as provided in this Ordinance, (see section 9.8). [Note: section 9.8 is now section 200.608]
78. *Special exception uses (special land use).* Uses of land and/or buildings, because of their particular nature and due to certain circumstances are designated as exceptions, and may be permitted to become established within those districts as specified in this Ordinance, (see section 9.8). [Note: section 9.8 is now section 200.608]
79. *Story.* That portion of a building included between the surface of any floor and the surface of the floor next above it, or of the ceiling above it. A basement shall be counted as a story if its ceiling is over six feet above the average level of the finished ground surface adjoining the exposed exterior walls of such story, or if it is used for business or dwelling purposes.
80. *Street.* A public dedicated right-of-way which provides primary access to abutting properties, and over which the public has easement of vehicular access.
81. *Structure.* Anything constructed, assembled or erected, the use of which requires location on the ground or attachment to something having location on or in the ground, and shall include fences which are more than 50 percent solid, tanks, towers, advertising devices, bins, tents, lunch wagons, trailers, dining cars, camp cars or similar structures on wheels or other supports used for business or living purposes. The word "structure" shall not apply to wires and their supporting poles or frames of electrical or telephone utilities, or to service utilities entirely below the ground.
82. *Subdivision.* The division of a parcel of land into two or more parcels. Also see the definition of Plat.
83. *Transfer facility.* A tract of land, building, unit or appurtenance of a building or unit or combination of land, buildings, and units that is used or intended for use in rehandling or storage of solid waste incidental to the transportation of the solid waste.
84. *Travel trailer.* A structure designed to provide temporary living quarters for recreational, camping or travel use; constructed on a chassis with wheels so that it may be towed by a motor vehicle.
85. *Use.* The principal purpose for which a lot or the main building thereon is designed, arranged, or intended and for which it is, or may be used, occupied or maintained.
86. *Variance.* The granting to a petitioner, by the Board of Appeals, permission to vary from the strict application of this Ordinance as provided in section 6.2. [Note: section 6.2 is now section 200.802]
87. *Yard.* Open space on the same lot with a building or group of buildings, lying between the building and the nearest lot or street line, and unoccupied and unobstructed from the ground upward, except for plants, trees, shrubs, or fences. Lake lots shall have the front yard established between the principal building and the high water line of the adjoining lake.
88. *Yard, front.* Open space extending across the full width of lot between the front lot line or the proposed street line and the nearest line of the building or portion thereof. The depth of such yard shall be the shortest

horizontal distance between the front lot line or proposed front street line and the nearest point of the building or any portion thereof.

89. *Yard, rear.* Open space extending across the full width of lot between the rear line of the lot and the nearest line of the building, porch or projection thereof. The depth of such yard is the average horizontal distance between the rear lot line and the nearest point of the building.
90. *Yard, side.* Open space between side lot line, the side street line, or the proposed side street line, if such line falls within the lot, and the nearest line of the building, porch, or projection thereof, extending from the front yard to the rear yard or, in the absence of either of such yards, to the front lot line or rear lot line. The width of a side yard shall be the shortest distance between the side lot line and the nearest point of the building, porch or projection thereof.
91. *Zone.* (See "District")

(Ord. No. 93, 8-13-90; Ord. No. 105, 5-8-95; Ord. No. 123, 11-12-01; Ord. No. 133, 6-1-04; Ord. No. 136, 7-11-05; Ord. No. 143, § 1, 11-12-07; Ord. No. 163, § 1, 12-10-18)

ARTICLE III

200.300 - GENERAL PROVISIONS

200.301 - Interpretation of conflicting provisions.

Sec. 3.1. In this Ordinance, (except for section 8.9) [Note: section 8.9 is now section 200.410] words used in the present tense include the future; the singular number includes the plural number and plural, the singular; the word "shall" is mandatory and not permissive, and the word "may" is permissive. In interpreting and applying this Ordinance, the requirements contained herein are declared to be the minimum requirements for the protection of health, morals, safety or welfare. This Ordinance shall not be deemed to interfere with or abrogate or annul or otherwise affect in any manner whatsoever any Ordinances, rules, regulations or permits, or by easements, covenants, or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or larger open spaces than are imposed or required by other Ordinances, rules, regulations, or permits, or by easements, covenants, or agreements between parties, the provisions of this Ordinance shall prevail. Except as hereinafter provided, the following general regulations shall apply:

200.302 - Limitations on all land and structures.

Sec. 3.2.

- a. No building shall be erected and no existing building shall be moved, altered, added to or enlarged nor shall any land or building be used, designed, or arranged to be used for any purpose or in any manner other than that included among the uses hereinafter listed as permitted in the zone in which such building or land is located.
- b. Every building hereinafter erected shall be located on a lot as herein defined; and, except as herein provided, there shall be not more than one single or two family dwelling on one lot, and each lot shall be duly recorded.
- c. Property which has less than the required lot frontage or lot width may have a dwelling or other building constructed thereon, provided, however, that all of the following conditions are met:
 - (1) The lot width at the street line is no less than sixty-six (66) feet in width.

- (2) The dwelling or building to be constructed meets the yard setback requirement for the zoning district in which it is located, with the front yard setback measured as though the 66-feet were extended through the depth or length of the parcel. Where the 66-foot extension would terminate at an adjoining parcel that is not buildable or is less than ten acres, the 66-foot extension shall only be required to meet a length of 132 feet for purposes of establishing a front yard setback.
- (3) All areas associated with the access shall be in addition to the area and dimension requirements of this Ordinance.
- (4) Access roads shall not be adjacent to each other. There shall be at least 132 feet between access roads.
- d. The illumination of any buildings or uses of land shall be designed and operated so that the source of light shall not be directed upon adjacent properties or the public streets. In no event shall the illumination of a building or use of land be permitted to flood upon adjacent residential structures.
- e. [Deleted by Ordinance No. 136, adopted July 11, 2005.]

(Amended by: Ord. No. 105, 5-8-95; Ord. No. 136, 7-11-05; Ord. No. 147, § 1, 7-22-10)

200.303 - Limitations on height.

Sec. 3.3. No building shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the zone in which such building is located, except the height limitations shall not apply to church spires, belfries, cupolas, domes not used for human occupancy; nor to chimneys, ventilators, skylights, water towers, barns, silos, bulkheads, and necessary mechanical appurtenances usually carried above the roof level, except where in the opinion of the building inspector such may be deemed unsafe and could interfere with aerial navigation or constitute a fire hazard unless permitted by the FAA or the Fire Marshall. Roof-mounted or stand-alone antennas or wind energy systems that are less than 50 feet in height are exempt provided such location is setback 110 percent of the total height from any adjoining property line.

(Amended by: Ord. No. 147, § 2, 7-22-10)

200.304 - Limitations on area.

Sec. 3.4.

- a. No building shall be erected, nor shall any existing building be altered, enlarged, moved, or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the yard, lot, area and building location regulations hereinafter designated for the zone in which such buildings or open space is located, except as otherwise specifically provided.
- b. No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be considered as a yard or open space for any other building.
- c. Any lot as defined herein, which was legally recorded at the time of adoption of this Ordinance, and which was a buildable lot under the Zoning Ordinance in effect immediately prior to the adoption of this Ordinance, shall be deemed a buildable lot even though it may have less than the minimum area and/or dimensional requirements. Also see section 7.2c. [Note: section 7.2c is now section 200.302c]

200.305 - Building permits to erect or alter structures.

Sec. 3.5. Before construction begins on any new structure, alteration, or demolition of a building, or before any structure shall be erected or excavation started, a permit therefor shall be issued by the Township supervisor, or other official designated by the Township Board. Application for permit shall be upon a form furnished by the Township or designated official. If the

application shows compliance with the requirements of this Ordinance and the building and health regulations and Ordinances then in affect, the permit shall issued. Fees for building permits shall be established from time to time by the Township Board.

Note: Effective November 5, 1988 building permit applicants must receive approval for their sanitary disposal system from the Human Services Department of Kalamazoo County, 418 W. Kalamazoo Ave., Kalamazoo, MI. 49007, before a building permit can be issued.

Footnotes:

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Editor's note— *At the direction of the Township section 7.5 (of the Zoning Ordinance) has been combined with section 200.305 (former section 17) above.*

200.306 - Prior building permits.

Sec. 3.6 Nothing in this Ordinance shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to the effective date of this Ordinance provided that construction is commenced within six months after the date of issuance of the permit; that construction is carried on diligently and without interruption for a continuous period so that the entire building shall be completed according to the plans filed with the permit application within two years after the issuance of the building permit.

200.307 - Certificate of occupancy.

Sec. 3.7. It shall be unlawful to change a use or occupy any building or premises, in whole or in part, hereafter built, changed, enlarged or vacated until a Certificate of Occupancy has been issued, certifying that the structure, premises and use comply with the Township building and Zoning Ordinances. Occupancy permits shall be granted or denied within ten days from the date that a written application is filed with the building inspector or zoning enforcement officer. The issuance of a certificate of occupancy shall not be construed as permitting any violation of this Ordinance.

ARTICLE IV

200.400 - ZONING DISTRICTS AND ZONING MAP

Footnotes:

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Cross reference— *Litter, debris, and earth levelling, § 111.002(1)*

200.401 - Boundaries of zones.

Sec. 4.1. Where uncertainty exists as to the boundaries of any of the zones as shown on the Zoning Map, the following rules shall apply:

- a. Zone boundary lines are intended to be parallel or perpendicular to street, alley, or lot lines, unless such zone boundary lines are fixed by dimensions, as shown on said Zoning Map.
- b. Where zone boundaries are indicated as approximately following street or alley lines or proposed street lines, such lines shall be construed to be such boundaries.
- c. Where zone boundaries are so indicated that they approximately follow lot lines and are not more than 25 feet distance therefrom, such lot lines shall be such boundaries.

- d. In unsubdivided property or where a zone boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on such maps, or described in the text of the Ordinance, shall be determined by the map scale shown thereon, and scaled to the nearest foot.
- e. If all or any portion of any public street, alley, right-of-way, easement or land which is not included in any zone shall ever revert to or come into private ownership or shall ever be used for any purpose other than a public purpose, said land shall be subject to all of these regulations which apply within the zone immediately adjacent thereto, or within the most restricted of the immediately adjacent zones, if there be more than one.

200.402 - Zoning districts.

Sec. 4.2.

- a. For the purpose of this Ordinance, Pavilion Township is hereby divided into the following zoning districts:

| | | |
|-----|---|--|
| A-1 | — | Agriculture |
| A-2 | — | Agribusiness or Agri-tainment |
| R-1 | — | Residential, Single Family |
| R-2 | — | Residential, Single Family |
| R-3 | — | Residential, single and two Family |
| R-4 | — | Residential, Multiple-Family |
| R-5 | — | Residential, Multiple-Family, High Density |
| R-6 | — | Mobile Home Park |
| C-1 | — | Commercial, Local |
| C-2 | — | Commercial, General |
| I-1 | — | Industrial, Restricted |
| I-2 | — | Industrial, Manufacturing |
| I-3 | — | Industrial, Service |
| OSP | — | Open Space Preservation Overlay |

- b. The location and boundaries of the zones established in the municipality shall be shown on a map entitled Zoning Map of the Pavilion Township, and as same may be amended subsequent to the adoption thereof; and

said map, section or portion thereof, together with all notations, dimensions and other data shown thereon, are hereby made a part of this Ordinance to the same extent as if the information set forth on said map were fully described and incorporated herein.

- c. The official copy of the Zoning Map shall be in the custody of the Pavilion Township Clerk.

(Ord. No. 129, 11-11-02; Ord. No. 132, 8-11-03)

200.403 - A-1 Rural—Agriculture District.

Sec. 4.3.

4.31. *Description of district.* This district is composed of certain land in outlying areas presently of rural character. Such land is zoned for agricultural use with the intent that agriculture will be the principal land use within the foreseeable future. The regulations for this district are designed to stabilize and protect the essential characteristics of the district without unduly restricting its use solely to that of an agricultural nature. To these ends, development is limited to a low concentration and to those uses which would not be detrimental to future development.

4.32. *Permitted uses:*

- a. Single family dwellings and structures and uses normally auxiliary thereto.
- b. Any farm or agricultural activities, excluding those uses listed specifically under agri-business and agri-tainment. Such use and activities shall be subject to the State of Michigan (Department of Agriculture) Generally Accepted Agriculture Management Practices (GAAMP's).
- c. The sale of farm or dairy product which has been raised on the farm from which it is to be sold.
- d. Home occupations.
- e. Signs, when in accordance with the provisions of section 9.2. [Note: section 9.2 is now section 200.602]
- f. Accessory uses or buildings, when in accordance with the provisions of section 9.4. [Note: section 9.4 is now section 200.604.]
- g. Family care home.

4.33. *Special exception uses:*

- a. Churches, cemeteries, parochial and private schools.
- b. Eleemosynary, charitable and philanthropic institutions.
- c. Golf courses, private non-commercial clubs.
- d. Public utility buildings, telecommunication towers and antennas and structures necessary for the service of the community except that:
 1. There is no zoning restriction for utilities to be located in public streets or public rights-of-way.
 2. Public utility activities of an industrial character such as repair and maintenance yards, storage facilities, or activities which generate electronic interference are prohibited.
- e. Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds and other recreational areas.
- f. Gravel pits, quarries and mines.
- g. Migrant worker housing for persons employed on the premises for seasonal crops.
- h. Campgrounds.

- i. Kennels.
- j. Event barns.
- k. Group care home.
- ka. Planned residential development (see Appendix B).
 - l. [Deleted by Ord. No. 143, adopted November 12, 2007.]
- m. Waste transfer stations.
- n. [Repealed by Ord. No. 156, adopted October 10, 2016]
- o. Lawn mowing, snow plowing, subject to the conditions of a minimum lot area of two acres and a 25-foot setback from any side or rear yard to related activities (primarily parking).
- p. Landscape maintenance - limited to no outdoor storage of materials or sales from site subject to the condition of minimum lot area of two acres and a 25-foot setback from any side or rear yard for related activities.

4.34. *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 13. [Note: section 13 is now section 200.614].

(Amended by: Ord. No. 93, 8-13-90; Ord. No. 105, 5-8-95; Ord. No. 118, 5-8-00; Ord. No. 133, 6-1-04; Ord. No. 143, § 2, 11-12-07; Ord. No. 156, 10-10-16; Ord. No. 157, 12-12-16; Ord. No. 163, § 2, 12-10-18)

200.404 - A-2—Agriculture District.

Sec. 4.4.

4.41. *Description of district.* The purpose of the A-2 Agriculture District is to provide for the accommodation and regulation of manufacturing, warehousing, storage, and related commercial activities that are dependent upon or closely allied to the agricultural industry. To these ends, the A-2 District is designed and intended to be applied in agricultural areas.

4.42. *Permitted uses:*

- a. Contract sorting, grading and packaging services for fruits and vegetables.
- b. Canning of fruits, vegetables, preserves, jams and jellies, including specialty foods.
- c. Production of natural and processed cheese.
- d. Wet milling of corn.
- e. Preparation of feeds for animals and fowl.
- f. Production of flour and other grain mill products.
- g. Fluid milk processing.
- h. Production of frozen fruits, fruit juices, vegetables and other specialties.
 - i. Meat packing.
 - j. Poultry and small game dressing and packing, provided that all operations be conducted within an enclosed building.
- k. Livestock sales facilities.
 - l. Grain elevators and bulk storage of feed grains.
- m. Commercial greenhouses.

- n. [Deleted by Ord. No. 133, adopted June 1, 2004.]
 - o. Sales or maintenance of farm implements and related equipment.
 - p. Soil mixing for commercial sales.
 - q. [Repealed by Ord. No. 156, adopted October 10, 2016]
 - r. Drying and dehydrating fruits and vegetables.
 - s. Production of sausages and other meat products, providing that all operations be conducted within an enclosed building.
 - t. Winery.
 - u. Fruit and vegetable pickling.
 - v. Production of creamery butter.
 - w. Single family dwelling, subject to the lot, yard and area requirements for the district.
 - x. Veterinarian services.
 - y. Horticulture.
 - z. Signs where in accordance with the provisions of section 9.2. [Note: section 9.2 is now section 200.602].
 - aa. Accessory uses or buildings when in accordance with the provisions of section 9.4. [Note: section 9.4 is now section 200.604].
 - bb. Sawmill.
 - cc. Family care home.
- 4.43. *Special exception uses*: Subject to the conditions/limitations in section 9.3. [Note: section 9.3 is now section 200.903].
- a. [Repealed by Ord. No. 156, adopted October 10, 2016]
 - b. Riding stables.
 - c. Slaughtering of animals.
 - d. Kennels.
 - e. Telecommunication towers and antennas.
 - f. Living quarters for watchman or caretaker employed on the premises.
 - g. Boarding house or similar group housing for employees or students associated with the agricultural operation and not meeting the definition of family.
 - h. Agri-tainment, including uses, facilities and activities associated with the agricultural operation and devoted to entertainment, education and training or similar pursuit.
 - i. Agribusiness or similar uses of a business or commercial nature, associated with a permitted use in the "A-2" district, where seasonal activities or events generate large numbers of patrons or customers, shall be subject to special exception use approval and subject to conditions associated with that specific operation.
 - j. Planned unit development.
 - k. Fertilizer mixing and blending and chemical sales and storage.
 - l. Zoological park or wildlife game preserve.
 - m. Group care home.
- 4.44. *Lot, yard and area requirements*. Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 13. [Note: section 13 is now section 200.614]

(Ord. No. 105, 5-8-95; Ord. No. 118, 5-8-00; Ord. No. 132, 8-11-03; Ord. No. 133, 6-1-04; Ord. No. 143, § 3, 11-12-07; Ord. No. 156, 10-10-16)

200.405 - R-1 Residential District, Single Family.

Sec. 4.5.

4.51. *Description of district.* This district is composed of certain land in outlying areas presently of a rural residential character where low density single family residential development has occurred or appears likely to occur. The regulations for this district are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to low density single family residential use consistent with limited rural type facilities and services.

4.52. *Permitted uses:*

- a. Single family dwellings, and the accessory structures and uses normally auxiliary thereto.
- b. Home occupations.
- c. Publicly owned and operated building and uses including community buildings and public parks, playgrounds and other recreational areas.
- d. Signs, when in accordance with the provisions of section 9.2 [Note: section 9.2 is now section 200.602].
- e. Accessory uses or buildings, when in accordance with the provisions of section 9.4. [Note: section 9.4 is now section 200.604].
- f. Family care home.
- g. [Repealed by Ord. No. 156, adopted October 10, 2016]

4.53. *Special exception uses:*

- a. [Repealed by Ord. No. 156, adopted October 10, 2016]
- b. [Deleted by Ord. No. 143, adopted November 12, 2007.]
- c. Planned residential development (See appendix B).
- d. Group care home.

4.54. *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 13. [Note: section 13 is now section 200.614].

(Amended by: Ord. No. 93, 8-13-90; Ord. No. 143, § 4, 11-12-07; Ord. No. 151, § 1, 8-13-12; Ord. No. 156, 10-10-16)

200.406 - R-2 Residential District, Single Family.

Sec. 4.6.

4.61. *Description of district.* This district is composed of medium density single family residential areas in the Township where medium density single family residential development has occurred, or appears likely to occur. The regulations for this district are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to single family residential use, where adequate facilities and services will be provided.

4.62. *Permitted uses:*

- a. Single family dwellings, and the accessory structures and uses normally auxiliary thereto.

- b. Home occupations.
- c. Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds and other recreational areas.
- d. Signs, when in accordance with the provisions of section 9.2 [Note: section 9.2 is now section 200.602].
- e. Accessory uses, or buildings, when in accordance with the provisions of section 9.4. [Note: section 9.4 is now section 200.604].
- f. Family care home.
- g. [Repealed by Ord. No. 156, adopted October 10, 2016]

4.63. *Special exception uses:*

- a. Any special exception use permitted in the R-1 Residential District.

4.64. *Lot, yard and area requirements* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 13. [Note: section 13 is now section 200.614].

(Amended by: Ord. No. 139, § 4, 9-8-06; Ord. No. 143, § 5, 11-12-07; Ord. No. 151, § 2, 8-13-12; Ord. No. 156, 10-10-16)

200.407 - R-3 Residential District, Single and Two Family.

Sec. 4.7.

4.71. *Description of district.* This district is composed of higher density single and two family residential areas in the Township where high density single family or two family residential development has occurred, or appears likely to occur. The regulations for this district are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to higher density single family and two family residential use where adequate facilities and services will be provided.

4.72. *Permitted uses:*

- a. Single family dwellings, and the accessory structures and uses normally auxiliary thereto.
- b. Two family dwellings.
- c. Home occupations.
- d. Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds and other recreational areas.
- e. Signs, when in accordance with the provisions of section 9.2. [Note: section 9.2 is now section 200.602].
- f. Accessory uses, or buildings, when in accordance with the provisions of section 9.4. [Note: section 9.4 is now section 200.604].
- g. [Repealed by Ord. No. 156, adopted October 10, 2016]
- h. Family care home.

4.73. *Special exception uses:*

- a. Any special exception use permitted in the R-2 Residential District.
- b. [Deleted by Ord. No. 143, adopted November 12, 2007.]

4.74. *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 13. [Note: section 13 is now section 200.614]

(Ord. No. 143, § 6, 11-12-07; Ord. No. 156, 10-10-16)

200.408 - R-4 Residential District, Multiple Family.

Sec. 4.8.

4.81. *Description of district.* This district is composed of certain areas within the Township where multiple family residential development has occurred, or appears desirable to occur. The regulations for this district are designed to protect and stabilize the essential characteristics of these areas, and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to multiple family residential use where adequate public facilities and services will be provided by the developer.

4.82. *Permitted uses:*

- a. Two family, dwellings and the accessory structures and uses normally auxiliary thereto.
- b. Apartment houses, condominiums, boarding houses, garden apartment development and the accessory structures and uses normally auxiliary thereto.
- c. Business offices in an apartment building for conducting business incidental to the rental, operation, service and maintenance of the apartment building, or buildings.
- d. Home occupations, limited to existing single family dwellings and to two family semidetached dwellings.
- e. Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds and other recreational areas.
- f. Signs, in accordance with the provisions of section 9.2. [Note: section 9.2 is now section 200.602].
- g. Accessory uses or buildings, in accordance with the provisions of section 9.4. [Note: section 9.4 is now section 200.604].

4.83. *Special exception uses:*

- a. Any special exception use permitted in the R-3 Residential District.
- b. Limited residential care facilities.

4.84. *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 13. [Note: section 13 is now section 200.614].

(Ord. No. 143, § 7, 11-12-07)

200.409 - R-5 Residential District, High Density Multiple Family.

Sec. 4.9.

4.91. *Description of district.* This district is composed of certain areas within the Township where high density multiple family residential development has occurred, or appears desirable to occur. The regulations for this district are designed to protect and stabilize the essential characteristics of these areas, and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to high density multiple family residential use where adequate public facilities and services will be provided by the developer.

4.92. *Permitted uses:*

- a. Any use permitted in the R-4 Multiple Family District.

- b. Signs, in accordance with the provisions of section 9.2. [Note: section 9.2 is now section 200.602].
- c. Accessory uses or buildings, in accordance with the provisions of section 9.4. [Note: section 9.4 is now section 200.604].

4.93. *Special exception uses:*

- a. Any special exception use permitted in the R-3 Residential District.
- b. Full residential care facilities.

4.94 *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 13. [Note: section 13 is now section 200.614].

(Ord. No. 143, § 8, 11-12-07)

200.410 - R-6 Mobile Home Park District.

Sec. 4.10.

4.101. *Description of district.* This district is designed solely for mobile home parks and such accessory structures and uses normally associated thereto, in accordance with those regulations specified by the State of Michigan.

4.102. *Permitted uses:*

- a. Mobile home parks and accessory buildings and uses, including residences for the mobile home park owner and his or her family.

4.103. *Conditions and limitations:*

- a. All mobile home parks shall comply with the requirements imposed by Michigan Public Act 96 of 1987, as amended and with any and all regulations promulgated thereunder by the Michigan Mobile Home Commission and the Michigan Department of Public Health, except as said Act and regulations may be modified by the provisions herein.
- b. Mobile homes, permanent park buildings and facilities and other structures abutting a public right-of-way may not be located closer than 50 feet from any public street right-of-way line or from any side or rear property line boundary.
- c. The mobile home park shall be developed with sites of 5,500 square feet per mobile home unit. This 5,500 square feet for any one site may be reduced up to 20 percent provided that the minimum individual site is not less than 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least 75 percent of the land saved shall be dedicated as open space, but in no case shall the open space requirement be less than that required under Rule 125.1946 of the Michigan Administrative Code.
- d. All mobile home sites shall abut a road complying with the following minimum width requirements and which shall have unobstructed access to a public street or highway. An internal road shall be constructed of materials suitable for subgrades and hard surface in compliance with standards of the American Association of State Highway and Transportation Officials (AASHTO) (1974 Edition), adopted herein by reference. A park developer may use other suitable materials of equal quality, if approved by the Mobile Home Commission or its delegated authority.

| Type of Road | Minimum Width |
|---|---------------|
| One-way traffic with no on-street parking | 13' |

| | |
|--|-----|
| One-way traffic with one side on-street parking | 23' |
| One-way traffic with two sides on street parking | 33' |
| Two-way traffic with one side on-street parking | 31' |
| Two-way traffic with no on-street parking | 41' |

The foregoing permitted on-street parking shall be parallel parking only.

- e. Garbage or other rubbish may not be burned outdoors on individual mobile home sites, although a common area or areas may be established within a mobile home park for such burning so long as all pertinent statutes, Ordinances, and regulations promulgated thereunder are complied with.
- f. All mobile home parks shall be connected to public water and sanitary sewer services where such public services are reasonably available. The water supply system of a mobile home park shall be underground and available and accessible to each mobile home for connection by a dual water tap frost-free water connection at least four inches above ground. The water supply lines servicing the mobile home park shall be of sufficient size to provide adequate water flow for fire protection for the mobile home park. No mobile home site shall be more than 500 feet from a fire hydrant. With reference to the governing regulation in parts 2 through 4 of the Michigan Department of Public Health Standards.
- g. Grass shall be mowed and kept in a neat condition.
- h. Mobile home sales shall be permitted from mobile home sites within the mobile home park. Such sales shall at all times be incidental and subordinate to the residential operations and for the principal purpose of sales to tenants or prospective tenants of the mobile home park.
- i. The mobile home park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water. Where public storm sewers are not available for such drainage, all surface water shall be disposed of within the mobile home park boundaries.
- j. Preliminary plans for all new mobile home parks or expansions to existing mobile home parks must be submitted to and approved by the Planning Commission as being in compliance with the terms of this Ordinance and all applicable state statutes and regulations promulgated thereunder before construction may commence. Application for preliminary plan approval shall be made by (1) filing seven copies of the preliminary plan with the Township clerk and (2) paying a preliminary plan review fee as determined by resolution of the Township Board based upon the cost of processing the review and as shall be on file with the Township clerk for public information.

The preliminary plan must consist of, but shall not be limited to the following:

- i. The number and size of individual mobile home sites and the location of the streets.
- ii. The proposed location and method of sewage treatment and disposal and appropriate supporting data.
- iii. The source and location of the water supply and fire hydrants.
- iv. The location of access to public roads.
- v. Drainage provisions.
- vi. Site features including all structures, outdoor recreational facilities, walkways, parking and street frontage.
- vii. The location, size and design of all signs to be placed upon the site.
- viii. The location and general description of all screening to be retained or established on the site.
- k. Property which is the subject of preliminary plan approval must be developed in strict compliance with the

approved preliminary plan and any amendments thereto which have received the approval of the Planning Commission.

- l. The Township Planning Commission shall have the right and authority to require the mobile home park's developer to file with the Township clerk at the time of Township approval of a preliminary plan for a new mobile home park or for expansion of an existing mobile home park, a performance bond or bank letter of credit in such amounts as may be determined by the Township Board necessary to insure the development of the site in accordance with the approved preliminary plans therefor, conditioned upon such proper construction and development. Such bonds, if required, shall continue for the duration of the construction and development of the site and shall be in a face amount which is a reasonable percentage of the estimated total cost of construction and site development. The bond shall be for the purpose of securing the completion of improvements considered necessary to protect natural resources or the health, safety, and welfare of the residents of the Township and adjacent residents and property owners. The Township Board shall provide for the rebate of any cash bond filed in this connection in reasonable proportion to the ratio of the work completed on the improvements for the improvements for which the bond was required.
- m. All mobile home parks shall have a minimum area of ten acres. (added by amend. ord. no. 73 eff. June 5, 1960; amend. ord. no. 111 eff. Aug. 1, 1964; ord. no. 153 eff. May 26, 1969; ord. no. 158 eff. Nov. 10, 1969; ord. no. 290 eff. Feb. 23, 1983; ord. no. 374 eff. May 1, 1989)

4.104. *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 13. [Note: section 13 is now section 200.614].

(Ord. No. 133, 6-1-04)

200.411 - C-1 Commercial District, Local.

Sec. 4.11. *Description of district.* This district is established to support business or retail use that primarily serves residential neighborhoods within proximity to such uses. It is intended to limit uses that generate excessive vehicle parking or stacking needs or where the outdoor display of goods or storage or material or equipment is proposed.

4.112. *Permitted uses.* Retail sales of goods and services such as:

- a. Bakery and dairy products, retail sales only.
- b. Banks, savings and loan associations.
- c. Barber and beauty shops.
- d. Books, stationery and newspapers.
- e. Clothing and dry goods.
- f. Drugs and pharmaceuticals.
- g. Florist and garden shops.
- h. Funeral establishments.
- i. Furniture and household furnishings.
- j. Groceries and food stuffs.
- k. Hardware, hobby shop, household appliances.
- l. Laundromat, laundry and dry cleaning pick-up station.
- m. Music and dancing schools.
- n. Offices, business or professional.

- o. Photography store.
- p. Radio and television, sales and service.
- q. Restaurant or similar eating establishment.
- r. Shoe sales and repair.
- s. Signs when in accordance with the provisions of section 9.2. [Note: section 9.2 is now section 200.602].
- t. Tailoring and dressmaking.
- u. Variety store, antiques, gifts.
- v. Accessory uses or buildings, when in accordance with the provisions of section 9.4. [Note: section 9.4 is now section 200.604].
- w. Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds and other recreational areas.
- x. Reserved.
- y. Gift shop.
- z. Medical clinic.
- aa. Churches.
- bb. Convenience store.
- cc. Reserved.

4.113. *Special exception uses:*

- a. Any other retail use similar to those permitted uses in section 4.112, including any listed use that has more than one drive-in window or where outdoor display of goods or outdoor storage of material or equipment is proposed.
- b. [Repealed by Ord. No. 156, adopted October 10, 2016]
- c. Gasoline service stations.
- d. Package liquor sales.
- e. Public utility buildings, telecommunication towers and antennas, and structures necessary for the service of the community except that:
 - 1. There is no zoning restriction for utilities to be located in public streets or public right-of-way.
 - 2. Public utility activities of an industrial character such as repair and maintenance yards, storage facilities, or activities which generate electronic interference are prohibited.
- f. Full residential care facilities.

4.114. *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 13. [Note: section 13 is now section 200.614].

(Amended by: Ord. No. 105, 5-8-95; Ord. No. 118, 5-8-00; Ord. No. 139, § 5, 9-8-06; Ord. No. 143, § 9, 11-12-07; Ord. No. 156, 10-10-16)

200.412 - C-2 Commercial District, General.

Sec. 4.12.

- 4.121. *Description of district.* This district is established for the accommodation of community wide needs for general retail sales and service facilities. The regulations are designed to permit development of the enumerated functions as limited to protect the abutting and surrounding properties.
- 4.122. *Permitted uses:*
- a. Any permitted use in the C-1 Local Commercial zone.
 - b. Automobile repair garage.
 - c. Automobile sales agency and adjoining outdoor sales area of new or used cars, provided that no dismantling of cars, or storage of dismantled cars shall take place outdoors.
 - d. Boats and equipment sales.
 - e. Commercial recreation enterprises; indoors.
 - f. Contractors' work shops.
 - g. Greenhouse, nursery.
 - h. Hotel, motel.
 - i. Machinery and heavy equipment sales; indoors.
 - j. Signs, when in accordance with the provisions of section 9.2. [Note: section 9.2 is now [section 200.602](#)].
 - k. Accessory uses or buildings, when in accordance with the provisions of section 9.4. [Note: section 9.4 is now [section 200.604](#)].
 - l. Existing single family residence, subject to "R-2" site development requirements. Home occupations are permitted subject to the requirements under section 6.5.
 - m. Drive-in eating establishments.
 - n. Mobile home sales.
 - o. Reserved.
 - p. Clubs, private, including reception halls, banquet facilities or similar uses.
 - q. Bowling alleys.
 - r. Full residential care facilities.
- 4.123. *Special exception uses:*
- a. [Repealed by Ord. No. 156, adopted October 10, 2016]
 - b. Animal hospital.
 - c. Any general retail use similar to those uses permitted in this section.
 - d. Bar, tavern and night club.
 - e. Bus or truck terminal.
 - f. Commercial recreation enterprises, outdoors, including drive-in theaters or similar uses.
 - g. Earth removal, excavations, commercial.
 - h. Gasoline service stations.
 - i. Package liquor sales.
 - j. Public utility buildings, telecommunication towers and antennas, and structures necessary for the service of the community except that:
 1. There is no zoning restriction for utilities to be located in public streets or public rights-of-way.

2. Public utility activities of an industrial character such as repair and maintenance yards, storage facilities, or : generate electronic interference are prohibited.
- k. Riding stable, race track; commercial.
- l. Volunteer or municipal fire station.
- m. Reserved.
- n. Bulk storage facility.
- o. Construction and farm equipment sales.
- p. Rental storage or mini-warehouse storage facilities.
- q. Light industry.
- r. Mixed use development, subject to the following:

An application for mixed-use development may include land designated within the Pavilion Township Master Plan as Commercial. Where the underlying zoning does not allow for mixed-use development as a special exception use, only those uses permitted by right shall be included within that portion of the development area. Within this type of application, separation between residential use and more intensive use (in the form of a greenbelt buffer or similar screening) may not be required or desired.

The submitted site plan shall identify the development area in total, the underlying zoning district(s) and any man-made features within 100 feet of the site perimeter. The Planning Commission shall first consider the application for special exception use and then consider the application for site plan review. All conditions imposed on the approval of the special exception use shall be reflected on the final site plan.

The following conditions shall apply to any application for mixed-use development:

1. The minimum parcel size for any development area shall be five acres. This may include consolidation of parcels for purposes of such application.
2. There shall be frontage of at least 330 feet along an existing primary road, or an existing public road or private road that can support the scope of the proposed mixed use.
3. Perimeter setbacks shall adhere to the setback requirements for the underlying zoning district. Interior setbacks between the proposed uses or separation distance between any proposed or existing buildings within the development area shall be indicated on the site plan. In no instance shall this setback or separation be less than ten feet for any detached building.
4. No less than twenty-five percent of the development area shall be preserved in open space, with such open space to be located both internally (to the benefit of the residents, employees or patrons of the development) and along the perimeter as a buffer from less intensive uses. Emphasis should be placed on pedestrian movement within the site and the connection of the development area to any off-site non-motorized facilities (sidewalks, bike lanes or bikepaths).
5. If the proposed development is to be constructed in phases, these must be identified on the site plan and any initial phase shall include a use that is a permitted use within the underlying zoning district, unless specifically waived by the Planning Commission. In no instance shall the final mix of uses not include a permitted use within the underlying district.

4.124. *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 13. [Note: section 13 is now section 200.614].

(Amended by: Ord. No. 105, 5-8-95; Ord. No. 118, 5-8-00; Ord. No. 139, § 6, 9-8-06; Ord. No. 143, § 10, 11-12-07; Ord. No. 156, 10-10-16)

200.413 - I-1 Industrial District, Restricted.

Sec. 4.13.

4.131. *Description of district.* This restricted industrial district is limited to large tracts located along state highways, major county thoroughfares and railroad rights-of-way and/or commercial areas. These regulations are intended to provide standards of intensity of use and standards of external effects or amenities compatible with the surrounding or abutting residential districts.

To these ends, development is limited to a low concentration, external effects are limited, and uses are limited to those industrial activities which can be operated in a clean and quiet manner and which will be least objectionable to adjoining residential districts.

4.132. *Permitted uses:*

- a. [Repealed by Ord. No. 156, adopted October 10, 2016]
- b. Assembly of merchandise such as electrical appliances, electronic or precision instruments, and articles of similar nature.
- c. Packaging of previously prepared materials.
- d. Printing, lithographic, blueprinting and similar uses.
- e. Processing or compounding commodities such as drugs, cosmetics, pottery, and food products.
- f. Signs, when in accordance with the provisions of section 9.2. [Note: section 9.2 is now section 200.602]
- g. Storage or warehousing of commodities such as hardware, packaged or fresh foods, clothing, drugs (except live fowl or animals, commercial explosives, or above or below ground bulk storage of flammable liquids, or gases, unless and only to the extent that such storage of liquids or gases is directly connected to energy or heating on the premises).
- h. Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds and other recreational areas.
- i. Accessory uses or buildings, when in accordance with the provisions of section 9.4. [Note: section 9.4 is now section 200.604].
- j. Gasoline service stations.
- k. Machine shop.
- l. Manufacturing; indoors.
- m. Public utility buildings.
- n. Tailoring and dressmaking.
- o. Truck terminal.

4.133. *Special exception uses:*

- a. Office buildings.
- b. Telecommunication towers and antennas.

4.134. *Lot, yard and area requirements:*

- a. Except as elsewhere specified herein, the lot yard and area requirements shall be as specified in section 13. [No longer section 200.614].
- b. Each district shall contain at least 25 acres.

(Amended by: Ord. No. 118, 5-8-00; Ord. No. 156, 10-10-16)

200.414 - I-2 Industrial District, Manufacturing.

Sec. 4.14.

4.141. *Description of district.* The purpose of this district classification is to establish a zone where designated industrial activities may locate which produce a minimum amount of adverse effect on adjoining premises, which are more uniform in character and which provide for a higher quality industrial land use. In this regard, no building or premises shall be used and no building shall hereafter be erected or altered within an I-2 Industrial District unless otherwise provided in this Ordinance, except for one or more of the following uses and subject to the following conditions and limitations.

4.142. *Permitted uses:*

- a. Uses permitted in I-1.
- b. Wholesale distributor of goods and merchandise.
- c. Offices and office buildings.
- d. Essential services, municipal or public utility buildings.
- e. Fully enclosed warehouses.
- f. Industrial manufacturing operations and operations for the servicing, compounding, assembling or treatment of articles of merchandise.
- g. Accessory uses or buildings, when in accordance with the provisions of section 200.604.
- h. Signs, when in accordance with the provisions of section 200.602.
- i. Child care centers, or day care centers.
- j. Community buildings and public parks, playgrounds and other recreational areas.
- k. Lumber yard.
- m. Contractors work shops.

4.143. *Special exception uses:*

- a. Banks.
- b. Gas station.
- c. Service station.
- d. Convenience stores.
- e. Restaurant.
- f. Any industrial use which meets the intent and purpose of this district.
- g. Recycling center.
- h. Material recovery facility (M.R.F.).
- i. Telecommunication towers and antennas.
- j. Adult entertainment.

4.144. *Conditions and limitations:*

- a. All operations must be carried on within fully enclosed buildings except for the following:
 1. Outdoor storage in the rear yard area of such buildings must not exceed 15 percent of the square-foot area of the principal building upon the premises. Such outdoor storage must be screened from adjoining premises and public streets. (See section 200.606 now)
 2. Delivery operations to and from said business which do not involve excessive noise, excessive fumes or any excessive nuisance to adjacent premises.
 3. Such outdoor storage or activities as may be allowed under special exception permit by the Planning Commission which may be granted by said commission where, in its discretion, the purposes of this district classification are still fully complied with and no greater adverse effect would result therefrom to adjoining premises.
- b. No building shall be located nearer than 100 feet from the property line abutting any public street not nearer than 25 feet from any interior, side, or rear property line or in accordance with section 13 [section 200.614]. Any building or structure which exceeds 35 feet in height as measured from the west abutting grade level shall be set back one additional foot for each foot of height in excess of 35 feet from all boundary lines of the site.
- c. Parking. See section 200.601.
- d. All land of any individual site in use hereunder, not occupied by buildings, structures, improved parking areas or storage areas shall be maintained in a neat and attractive manner, free of junk and debris.
- e. The principal building on the premises must not be less than 4,000 square feet in area.
- f. The total area of buildings on any individual site shall not exceed 30 percent of the total land area of such site refer to section 13 [section 200.614].
- g. No site shall be developed for use until a plan, drawn to scale, has been prepared and filed with the Township Building Department, showing the intended future development of all adjoining lands under ownership or control of the applicant and which were under the ownership or control of the predecessor entitled to said applicant, complying with the requirements of the "I-2" Industrial District Manufacturing Classification.
- h. No lighting shall be allowed which produces any unreasonable glare upon adjoining residential zones or premises, nor which in the opinion of the Zoning Board of Appeals would be a nuisance or annoyance to such adjoining premises.
- i. No exposed or outdoor loading and unloading docks or areas shall face any adjoining residential zone unless the same are screened therefrom by other buildings, structures, or natural screening adequate to obscure the view thereof from such adjoining residential area.
- j. Public water and sanitary sewer shall be utilized, if available. Surface drainage shall be through public storm sewers or shall be disposed of upon the site.
- k. No use shall be allowed which shall emanate noise, smoke, odor, dust, dirt, noxious gases, glare, heat, vibration or psychological ill effects to such an extent as will be a nuisance or annoyance to occupants of surrounding premises. (Fly ash in excess of .15 grains per cubic foot of flue gas at a stack temperature of 500 degrees Fahrenheit and smoke of density in excess of "Ringelman Chart No. 1" are hereby declared such a nuisance). The Planning Commission is hereby given the right and authority to determine any question of nuisance or annoyance which might arise hereunder, and such determination shall be conclusive.

- I. The Planning Commission is further hereby given the right and authority to grant permission for the establishment and operation of any use within this district, not expressly included within the permissible uses hereinbefore set forth, shall, in the absolute discretion of said commission, comply with the spirit, intent and purpose of these provisions by statute, said Planning Commission shall further have the right and authority to interpret and construe the provisions of the "I-2" Industrial District as the same apply to any particular industry or trade operating or proposed to be established in such district. Such decision of said commission shall be conclusive.

(Ord. No. 105, 5-8-95; Ord. No. 118, 5-8-00; Ord. No. 130, 5-12-03)

200.415 - I-3 Industrial District, Service.

Sec. 4.15.

4.151. *Description of district.* This district is composed of certain lands located along state highways, major county thoroughfares and railroad rights-of-way. The district is designed to provide land for activities of an industrial nature placing emphasis on the service type of industry as opposed to the manufacturing type of industry. Because of the nature of the district, it should be located so as to be least objectionable to adjoining commercial or residential uses.

4.152. *Permitted uses:*

- a. Uses permitted in I-1 and I-2.
- b. Machinery and equipment sales; indoors.
- c. [Repealed by Ord. No. 156, adopted October 10, 2016]
- d. Automobile repair garage.
- e. Construction and farm equipment sales.
- f. Contractor's equipment yard.
- g. Gasoline service station.
- h. Grain equipment and processing.
- i. Hardware and building supplies.
- j. Ice and cold storage plant.
- k. Lumber, fuel and feed yards.
- l. Machine shop.
- m. Public utility buildings and storage yards.
- n. Signs, when in accordance with the provisions of section 9.2. [Note: section 9.2 is now [section 200.602](#)]
- o. Storage and warehousing.
- p. Truck terminal, maintenance and service yard.
- q. Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds, and other recreational areas.
- r. Accessory uses or buildings, when in accordance with the provisions of section 9.4. [Note: section 9.4 is now [section 210.604](#)].

4.153. *Special exception uses:*

- a. Junk yards, building material salvage yard.
- b. Ready-mix concrete and asphalt plants.

- c. Slaughter house.
- d. Any industrial use which meets the intent and purpose of this district which does not emanate noise, vibration, odor, smoke, liquid wastes, or light to such an extent as to be objectionable to surrounding properties.
- e. Telecommunication towers and antennas.

A determination of the Board of Appeals established under state statute and this Ordinance shall be conclusive on any question of nuisance, or objectionableness of any business or operations under the terms of this section.

4.154. *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 13. [Note: section 13 is now section 200.614]

(Ord. No. 105, 5-8-95; Ord. No. 118, 5-8-00; Ord. No. 156, 10-10-16)

200.416 - OSP—Open Space Preservation Overlay.

Sec. 4.16.

4.161 *Description of district.* The establishment of this overlay district is to satisfy the requirements of 2006 P.A. 110, the Michigan Zoning Enabling Act. It requires that qualified townships provide, at the option of the landowner, for the clustering of residential units on a portion of the property provided that 50 percent or more of the land is preserved in permanent open space. This district is an overlay over those existing districts that have a residential density of three units per acre or less (with public sewer) or two units per acre or less (without public sewer). This shall be a development option for landowners within the following districts: "A-1", "A-2", "R-1", "R-2" and "R-3".

4.162 *Permitted uses:* All permitted residential uses within the underlying district are permitted within the "OSP" Overlay District. At the landowner's option, single family dwellings, shall be permitted within residential clusters subject to the following:

A. *Application procedure:*

1. An application shall be filed identifying the landowner's desire to exercise the open space preservation development option. With the application, the landowner shall submit a comparison plan that adheres to site development requirements for the underlying zoning district. This can be in the form of a proposed plat establishing lots, a land division plan creating parcels or a planned unit residential development creating sites and/or units. This comparison plan shall determine the number of dwelling units that can be developed within the open space preservation plan. This application and comparison plan may be reviewed administratively with the applicant prior to the submission of a site plan.
2. A site plan, adhering to the standards within the ordinance, shall be submitted for review and approval by the Planning Commission. It shall be titled "Open Space Preservation Plan" and a copy of the comparison plan shall be included with the site plan. A copy of these documents shall also be submitted to the Kalamazoo County Human Services Department for its review and a copy of their report shall be submitted by the applicant to the Planning Commission.
3. The Planning Commission shall review the site plan and determine compliance with the ordinance standards for: a) site plan review; b) requirements within the underlying zoning district; and c) requirements within this overlay district. They may approve the site plan as presented, approve subject to conditions or changes reflected in the motion to approve, table pending the submission of additional information, or deny the request based upon noncompliance with the ordinance standards.
4. The applicant shall submit a time line for development and identify any phases that may require further

Township review and approval. The Planning Commission may impose conditions on this development and in no case can required open space in each phase not meet a minimum of 50 percent of the area for that phase.

- B. *Conditions for approval:* The required conditions shall be based upon the layout and design of the dwelling units and preservation of the open space as follows:
1. *Layout/design provisions:* The layout and design of the dwelling units shall be in a manner that achieves the greatest compatibility with surrounding land use and with the intent and purpose of this overlay district and the underlying zone. It shall balance what is economically feasible for efficient cluster development with the need to preserve the character of the area. Individual parcels, lots or sites within the residential cluster shall meet the following:
 - a. *(Lot) width:* The parcels, lots, or sites (units) shall have a minimum lot width of no less than 50 percent of the lot width within the underlying zone or eighty (80) feet, whichever is greater.
 - b. *(Lot) area:* The parcels, lots, or sites (units) shall have a minimum lot area of 25 percent of the lot area within the underlying zone or 8,000 square feet, whichever is greater.
 - c. *(Lot) coverage:* The parcels, lots or sites (units) shall have a maximum lot coverage of 25 percent, including all accessory buildings.
 - d. *Floor area:* The minimum floor area for the dwelling unit shall meet the minimum standard within the underlying zone.
 - e. *Yard/setback:* The dwelling units shall meet the following setback provisions:

Front: 50 percent of the underlying zone but no less than 30 feet from the road right-of-way.

Side: 50 percent of the underlying zone but no less than ten feet.

Rear: 50 percent of the underlying zone but no less than 20 feet.
 - f. *Height:* The maximum building height shall be the maximum height standard within the underlying zone.
 2. *Open space provisions:* The intent of this overlay district is to preserve the character of the area consistent with that of the underlying zone. In order to achieve this intent, the following conditions shall apply:
 - a. In order to comply with the Act, the following definition shall be used to describe the nature of the open space to be preserved:

Undeveloped state: A natural state preserving natural resources, natural resources, natural features, or scenic or wooded conditions; agricultural use (A-1 and A-2 Districts only); open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, green way, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to use of the public.
 - b. The applicant shall provide calculations for the open space areas and documentation of the means to preserve the open space, whether in the form of a conservation easement, deed restriction or similar method, and the party responsible for maintenance of the open space are. If proposed for dedication to the public, a letter of support from the public entity, indicating acceptance and responsibility for

maintenance, shall be included with the application. A single entity, including, but not limited to, a sole owner, a private association, non-profit organization or a public body, shall have responsibility for maintaining the land in permanent open space.

- c. No part of the parcels, lots or sites shall be counted toward the open space, nor any land devoted to road right-of-ways or road easements or other impervious surfaces, other than those of a recreational nature (such as bike paths, tennis or basketball courts, or for pavilions or picnic shelters).
- d. The open space shall be arranged in a manner so that it is contiguous and accessible by residents within the residential cluster. It shall also be arranged to connect to other open space areas on adjoining properties and/or connected to possible pedestrian or non-motorized trails.
- e. The Planning Commission may consider the preservation of those areas where protection of the highest quality of natural resource is achieved. This includes areas of mature tree stands or forested areas, habitat areas for wildlife or similar areas that could otherwise be developed.

4.163 *Special exception uses:* No special exception use within the underlying zoning district shall be allowed unless such use is processed separately as a special exception use subject to review and approval.

4.164 *Overall site development:* The following regulations are based upon the relationship of the residential cluster(s) and the restricted open space to the adjoining properties, including the road right-of-way:

A. *Area, width and setback:*

- 1. *Area:* The minimum parcel area that may be considered for an open space development project is 20 acres.
- 2. *Width:* The minimum width of the parcel that may be considered for an open space development project is 330 feet, with this measured as the frontage along a public road right-of-way.
- 3. *Cluster setback:* The placement of any residential cluster, inclusive of the lots or sites under separate ownership, shall be setback no less than 100 feet from any existing public road right-of-way adjoining the open space preservation parcel. This area shall be included within the calculated open space and shall be connected to other open space areas or allow for connection through an access easement across lots or sites under separate ownership. The required setback from any other adjoining property line shall be a minimum of 50 feet exclusive of the required setback for building purposes. This 50-foot setback may be a part of the lot area and may be utilized for location of private water or wastewater systems or for easements for access or public utility purposes.

B. *Access:* Access to the dwelling units within the residential cluster shall be in the form of a public road accepted by the Kalamazoo County Road Commission.

(Amended by: Ord. No. 129, 11-11-02; Ord. No. 133, 6-1-04; Ord. No. 139, § 6, 9-8-06; Ord. No. 156, 10-10-16)

ARTICLE V

200.500 - STANDARDS AND SITE PLAN REVIEW

Footnotes:

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Editor's note— Ord. No. 128, adopted July 8, 2002, changed the title of Art. V from "Standards" to "Standards and Site Plan Review."

200.501 - Dwelling unit construction.

Sec. 5.1.

- A. Except in mobile home parks, every dwelling hereafter erected or moved onto any premises shall comply with the following:
- (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 24 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 standard 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 well 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 manufactured home, such dwelling 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, 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 local 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 ten percent 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 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 Township Building Inspector 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 30 days from the receipt of notice of said Building Inspector's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of "dwelling" as well as 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 quality 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 manufactured home, all construction, plumbing, electrical apparatus and insulation within and connected to said manufactured home shall be of a type conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. All dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- (10) The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the Ordinance of the Township pertaining to such parks.
- (11) 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.

B. [Deleted by Ord. No. 123, adopted November 12, 2001.]

(Ord. No. 123, 11-12-01)

Cross reference— Mobile home registry and inspection, Pt. 151.

200.502 - Site plan review.

Sec. 5.2

- A. *Purpose*: The intent of this section is to provide for consultation and cooperation between the land developer and the Pavilion Township Planning Commission in order that the developer may accomplish its objectives in the utilization of land consistent with the regulations of this zoning ordinance and with minimum adverse effect on the use of adjacent streets and highways and on existing and future uses in the immediate area and vicinity.
- B. *Scope*: The Building Inspector shall not issue a building permit for construction of any principal uses other than (1) single family or two family dwellings on individual lots or (2) mobile home parks, until a site plan, submitted in accordance with this section, shall have been reviewed and approved by the Planning Commission. This review shall include all special exception uses in all districts and principal uses including, but not limited to, multiple family, office, commercial or industrial development.
- C. *Optional sketch plan review*: Preliminary sketches of proposed site and development plans may be submitted for review to the Planning Commission prior to final approval. The purpose of such procedure is to allow discussion between a developer and the Planning Commission to better inform the developer of the acceptability of his or her proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such sketch plans shall include as a minimum the following:
1. The name and address of the applicant, including the names and addresses of any officers of a corporation or partners of a partnership. If the applicant is not the property owner, the name and address of the property owner and the owner must sign the application;
 2. A legal description and zoning classification for the property;
 3. Sketch drawings showing tentative site and development plans.

The Planning Commission shall not be bound by any tentative approval given at this time.

- D. *Application procedure*: Requests for final site plan review shall be made by filing with the Township Clerk the following:
1. A review fee as determined by resolution of the Township Board based upon the cost of processing the review and shall be on file with the Township Clerk for public information;

2. Nine copies of the completed application form for site plan review that shall contain, as a minimum, the following:
 - a. The name and address of the applicant;
 - b. The legal description for the subject parcel of land;
 - c. The area of the subject parcel of land stated in acres or, if less than one acre, in square feet;
 - d. The present zoning classification of the subject parcel; and
 - e. A general description of the proposed development.
3. Nine copies of the proposed site plan which shall include as a minimum the following:
 - a. A scale drawing of the site and proposed development at a scale of one inch = 20 feet to one inch = 100 feet;
 - b. The date of the drawing and the name, telephone number and address of the applicant/owner/developer and the engineer, architect or surveyor who prepared the plans;
 - c. The topography of the site and its relationship to adjoining land;
 - d. The natural features and any existing manmade features;
 - e. The locations, heights and size of structures and other important features and the dimensions between existing and proposed structures and setbacks required;
 - f. The percentage of land covered by buildings and that reserved for open space;
 - g. Lot coverage and dwelling unit density where pertinent;
 - h. The location of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated, or abandoned, including grades and types of construction of those upon the site;
 - i. Any curb-cuts, driving lanes, parking and loading areas and the dimensions of such;
 - j. The location and type of drainage, sanitary sewers, storm sewers, and other utility mains and facilities;
 - k. Any pedestrian walks, malls and recreation areas, emergency vehicle accessibility;
 - l. A required landscape plan which includes both screening and fencing where required (including rubbish disposal facilities). The plan shall include the following:
 1. Both perimeter and interior landscaping of parking lot areas, with a twenty-foot landscape strip established between a public road and any visible parking areas. This strip shall include at least one tree (at least six feet in height at the time of planting) planted along this strip for every 30 feet of public road frontage. Interior landscaping shall include at least 200 square feet of landscaping for every ten parking spaces. This can be arranged as parking islands or as landscaping between the principal building or parking area.
 2. In addition to the above requirements, the applicant shall screen or landscape areas within ten feet of any "R-1", "R-2" or "R-3" residential zone or where the property line is within 50 feet of any residential use. The applicant may propose opaque fencing of at least six feet in height, a berm with landscape plantings of at least six feet or a combination of fencing and landscaping to achieve the desired result, with this subject to review and approval by the Planning Commission.
 - m. Any proposed earth changes and environmental impact of the project;
 - n. Any signs and on-site illumination; and
 - o. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be demanded by any Township official regarding building and

zoning approvals.

E. *Action on application and plans:*

1. Upon receipt of the application and plans, the Township Clerk shall record the date of the receipt thereof and transmit seven copies thereof to the Planning Commission; one copy to the Township Building and Zoning Inspector and one copy to the Township Engineer or Township Planner depending upon the scope of the plan.
2. A review of the site plan shall be scheduled for the next regular meeting of the planning Commission provided the plan is received no less than 21 days prior to that meeting. This shall allow for the review by the Township Engineer and/or Township Planner and also allow for revisions to be made subject to those recommendations prior to the meeting.
3. The applicant shall be notified of the date, time and place of the meeting on their application or be notified that the submitted site plan does not conform to the zoning ordinance provisions for the use or for site plan review.
4. Following the meeting, the Planning Commission shall have the authority to approve, disapprove, modify or alter the proposed plans in accordance with the purpose of the site plan review provisions of the Township Zoning Ordinance and criteria therein contained. Any required modification or alteration shall be stated in writing, together with the reasons therefor, and delivered to the applicant. The Planning Commission may either approve the plans contingent upon the required alterations or modifications, if any, or may require a further review after the same have been included in revised plans by the applicant. The decision of the Planning Commission shall be made by said Board within 60 days of the initial review meeting. The site plan shall be approved if it contains the information required by the zoning ordinance and is in compliance with the ordinance, the conditions imposed pursuant to the ordinance, other applicable ordinances and state and federal law.
5. Two copies of the approved final site plan with any required modifications thereon shall be maintained as part of the Township records for future review and enforcement. One copy shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by the chairman of the Planning Commission for identification of the finally approved plans. If any variances from the zoning ordinance have been obtained from the Zoning Board of Appeals the minutes concerning the variance duly signed shall also be filed with the Township records as a part of the site plan and delivered to the applicant for his information and direction.

F. *Criteria for review:* In reviewing the application and site plan and approving, disapproving or modifying the same, the Planning Commission shall be governed by the following standards:

1. That there is a proper relationship between the existing streets and highways within the vicinity and proposed deceleration lanes, service drives, entrance and exit driveways and parking areas to assure the safety and convenience of pedestrian and vehicular traffic.
2. That the buildings, structures and entryways thereto proposed to be located upon the premises are so situated and designed as to minimize adverse effects therefrom upon owners and occupants of adjacent properties and the neighborhood.
3. That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.

4. That any adverse effects of the proposed development and activities emanating therefrom upon adjoining resid shall be minimized by appropriate screening, fencing or landscaping.
 5. That all provisions of the Township Zoning Ordinances are complied with unless an appropriate variance therefrom has been granted by the Zoning Board of Appeals. The Planning Commission may waive some of the requirements under this section (Section 5.2 -site plan review).
 6. That the height and location of all portions of buildings and structures are accessible to available emergency vehicles and equipment.
 7. That the plan as approved is consistent with the intent and purpose of zoning to promote public health, safety, morals and general welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services, to conform with the most advantageous uses of land, resources and properties; to conserve property values and natural resources; and to give reasonable consideration to the character of a particular area, its peculiar suitability for particular uses and the general and appropriate trend and character of land, building and population development.
- G. *Conformity to approved site plan:* Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the Planning Commission. If construction and development does not conform with such approved plan, the approval thereof shall be forthwith revoked by the Building and Zoning Inspector of the Township by written notice of such revocation posted upon the premises involved and mailed to the application at their last known address. Upon revocation of such approval, all further construction activities shall cease upon the site, other than for the purpose of correcting the violation. However, the Zoning Board of Appeals may, upon proper application of the developer and after a hearing, approve a modification in the site plan to coincide with the developer's construction provided such construction complies with the criteria contained in the site plan approval provisions and with the spirit, purpose and intent of the Township Zoning Ordinance. Approval of the site plan shall be valid for a period of one year after the date of approval. If a building permit has not been obtained and on-site development actually commenced within said one year, the site plan approval shall become void and new application for site plan approval shall be required and new approval obtained before any construction or earth change is commenced upon the site.
- H. *Amendment to site plan:* A proposed amendment, modification or alteration to a previously approved site plan shall be submitted to the Planning Commission for review unless such amendment does not relate to a change in use, whether permitted or by special exception, and does not alter the required parking or vehicular circulation (entrance or drive aisles). In such cases, a site plan amendment may be approved administratively by the Zoning Administrator.
- I. *Appeal of final decision:* An applicant may appeal the final decision of the Planning Commission to the Zoning Board of Appeals.

(Amended by: Ord. No. 128, 7-8-02; Ord. No. 147, § 3, 7-22-10)

ARTICLE VI

200.600 - SUPPLEMENTARY REGULATIONS AND STANDARDS

200.601 - Parking of motor vehicles.

Sec. 6.1.

- a. Every property owner shall provide and maintain at all times an adequate number of improved off-street parking spaces, and the necessary loading and unloading facilities associated thereto, in each district for all the occupants, employees and patrons of said property.
- b. A plan showing the required parking and loading spaces including the means of access and interior circulation, except for one family and two family dwellings, shall be provided at the time of application for a building permit for the erection or enlargement of any building.
- c. Parking space shall be provided in the manner and location herein specified.
 1. No parking area, parking space or loading space which exists at the time this Ordinance becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this Ordinance shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance, unless additional parking area or space is provided sufficient for the purpose of complying with the provisions of this Ordinance within 300 feet of the proposed or existing uses for which such parking will be available.
 2. Parking of motor vehicles in residential zones, except those used for farming, shall be limited to passenger vehicles, and not more than one commercial vehicle of the light delivery type, not to exceed $\frac{3}{4}$ -ton. The parking of any other type of commercial vehicle, or buses, except for those parked on school property, is prohibited in a residential zone.
- d. Requirements for all parking spaces and parking lots:
 1. Each automobile parking space shall be not less than 180 square feet nor less than 9 feet wide plus adequate driveway and aisle space.
 2. All off-street parking facilities shall be drained so as to prevent damage to abutting properties or public streets and shall be constructed of materials which will have a dust free surface resistant to erosion.
 3. Any lighting fixtures used to illuminate any offstreet parking area shall be so arranged as to reflect the light away from any adjoining residential lots and streets.
 4. No parking space shall be closer than 5 feet from the property line.
 5. Off-street parking facilities in non-residential zones shall be effectively screened on any side which adjoins or faces property in any residential zone by a wall, fence, or compact planting not less than 4 feet or more than 8 feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property. Screening shall not be so placed or maintained as to provide a traffic hazard through obstruction of visibility.
 6. All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas of one or two family dwellings.
 7. Space for all necessary loading and unloading operations for any commercial, industrial or other use must be provided in addition to the required off-street parking space. All loading and unloading operations must be carried on entirely within the lot area of the use it serves and shall not interfere with pedestrian, or vehicular movement.
 8. Requirements for the provision of parking facilities with respect to two or more property uses of the same or

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

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

e. Minimum required parking spaces:

1. Apartment houses—Two parking spaces per family unit.
2. Office buildings—One parking space for each 200 square feet of floor area.
3. Retail stores, super markets, department stores, personnel service shops, and shopping centers—One parking space for each 150 square feet of floor area.
4. Manufacturing buildings—One parking space for each three employees on the maximum shift.
5. Libraries, museums and post offices—One parking space for each 100 square feet of floor area.
6. Bowling alleys—Three parking spaces for each alley.
7. Motels and tourist homes—One parking space for each separate unit.
8. Theaters, auditoriums, stadiums and churches—One parking space for each four seats.
9. Dance halls, assembly halls, and convention halls without fixed seats—One parking space for each 100 square feet of floor area if to be used for dancing or assembly.
10. Restaurants and night clubs—One parking space for each 100 square feet of floor area.
11. Schools; private or public elementary and junior high schools—One parking space for each employee normally engaged in or about the building or grounds.
Senior high schools and institutions of higher learning—One parking space for each employee normally engaged in or about the building or grounds and one additional space for each five students enrolled in the institution.
12. Care homes—Two parking spaces for every three patients.
Nursing homes—One parking space for every five patients.
13. Home occupations—One improved parking space for each vehicle.

200.602 - Signs and outdoor advertising structures.

Sec. 6.2.

- a. In any zone which allows home occupations, an incidental sign not exceeding four square feet in area is allowed for advertising a home occupation or professional service. Such sign may be attached to the building, or may be located on the property of such use, but may be located no closer than five feet to the road right-of-way.
- b. In any zone where agricultural use is permitted, an incidental sign advertising the sale of farm products grown on the premises, such sign shall not exceed 16 square feet in area and shall be so located that it will not interfere with the full view of traffic.
- c. In any zone, one temporary real estate sign not exceeding six square feet in area for each lot, parcel or tract under 25,000 square feet in area. Such sign may be increased in size, or additional signs permitted for each additional 25,000 square feet of property advertised. No single sign shall exceed 250 square feet in area, and in

no event shall more than two such 250 square foot signs be permitted on one lot, parcel or tract advertised regardless of property area.

- d. Building contractors and professional persons temporary signs on buildings under construction shall be limited to a total area for all such signs to 32 square feet.
- e. In any commercial or industrial district, a sign is permitted only where it advertises a business occupying the same lot or parcel of land upon which the sign is erected. Signs shall meet the building setback and height requirements, except for, and in addition to, the requirements provided below.
 1. In any commercial or industrial district a sign may be affixed flat against the wall of the building, or may project therefrom not more than 42 inches. Signs projecting over public property shall be at least 11 feet above the finished grade, or sidewalk. The total sign area shall not exceed two square feet for each foot in length or height of the wall to which it is affixed. No such sign shall extend more than four feet in height above the building wall to which it is affixed.
 2. One identification sign may be erected for a shopping center or other integrated group of stores or commercial buildings. The maximum area of said sign shall be based on one square foot for each front foot of building, or buildings, for which it is established; however, it shall not exceed 400 square feet in area, nor be closer to the front, side or rear property line, than one-half the distance of the required building setback.
 3. One identification sign may be erected for each separate commercial enterprise situated on an individual lot and operated under separate ownership from any adjoining commercial enterprise. Such sign shall not exceed 60 square feet in area, nor be closer to the front, side or rear property line, than one-half the distance of the required building setback.
 4. Outdoor advertising signs (billboards) are permitted only in commercial and industrial zones under the following conditions:
 - a. Except as otherwise provided herein, signs and outdoor advertising structures are required to have the same setback as other principal structures or buildings in the zone in which they are erected, but not less than 100 feet from right-of-way.
 - b. Where two or more outdoor advertising structures are located along the frontage of a single street or highway they shall not be less than 1,500 feet apart. A double face, (back-to-back) or a V-type structure shall be considered as a single structure.
 - c. The total surface area, facing in the same direction, of any outdoor advertising structure shall not exceed 500 square feet.
 5. No sign or outdoor advertising structure shall be erected at any location where by reason of the position, size, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device so as to interfere with, mislead or confuse traffic.
 6. Signs may be illuminated; however, such illumination shall be concentrated upon the surface of the sign and the sign shall be so located and arranged as to avoid glare or reflection onto any portion of any adjacent highway, or into the path of oncoming vehicles, or onto any adjacent premises.
 7. In no event shall any sign, or outdoor advertising structure, have flashing or intermittent lights, or be permitted to rotate, or oscillate. Electronic signs are permitted provided that they comply with (6.) above and do not scroll or change message more than once every five seconds.
 8. Signs of a public, or quasi-public nature noting special events of general interest such as a county fair, public or general election, horse show, etc. shall not exceed 80 square feet in area except by special exception. Such sign shall be removed within ten days after the event.

9. A building permit is required.

(Ord. No. 123, 11-12-01; Ord. No. 143, § 11, 11-12-07; Ord. No. 156, 10-10-16)

200.603 - Nonconforming uses.

Sec. 6.3. The following regulations shall control nonconforming uses in existence at the time of passage of this Ordinance.

- a. If the cost of repair or replacement of a nonconforming use or structure, which has been destroyed by reason of windstorm, fire, deterioration, neglect, explosion or any act of God or the public enemy, exceeds 50 percent of the total replacement cost of the use or structure, such use or structure shall not be continued or rebuilt except in conformity with the provisions of this Ordinance.
- b. Nonconforming uses or structures of a lower use in existence at the time of passage of this Ordinance shall not be extended, added to or altered unless such extension, alterations or additions are in conformity with the provisions of this Ordinance.
- c. If the nonconforming use of any land or structure shall terminate its activity for a continuous period of time exceeding one year, such use shall not be re-established, and any future use of land and structure shall be in conformity with this Ordinance.
- d. If a nonconforming use is changed to a permitted or more restrictive use in the district in which it is located, it shall not revert or be changed back to a nonconforming or less restrictive use.
- e. The lawful nonconforming use of land not involving substantial buildings, nonconforming advertising signs and structures which are not necessary to the permitted uses of substantial structures, and temporary, movable or makeshift buildings, fences and other structures which are accessory to nonconforming uses not involving substantial buildings, shall be discontinued and the incidental structures removed within five years from the date of passage of this Ordinance. All subsequent use of such land shall be in conformity with the provisions of this Ordinance.

200.604 - Accessory uses or buildings.

Sec. 6.4. Any use which complies with all of the following conditions may be operated as an accessory use:

- a. No accessory building may be built on any lot on which there is no principal building, except for agricultural uses, and except further for property in section 19 with parcel numbers 19—380.
- b. One accessory building containing 120 square feet or less of ground area and eight feet or less in height and no more than 200 square feet roof area will be permitted on a parcel containing a principal building and will not be subject to obtaining a building permit.
- c. The use must be clearly incidental and customary to and commonly associated with the operation of the permitted uses.
- d. The use or building must be operated and maintained under the same ownership and on the same lot as the permitted uses, except for agricultural uses.
- e. The use does not include structures or structural features inconsistent with permitted uses.
- f. The use does not include residential occupancy.
- g. If an accessory use is carried on within a structure containing the permitted uses, the gross floor area within such structure utilized by accessory uses (except garages and off-street loading facilities) shall not be more than 20 percent of the gross floor area, but not to exceed 300 square feet, in the single unit dwelling.
- h. Fall-out shelters are permitted as accessory uses and structures in any district, subject to the yard and lot

coverage regulations of the district. Such shelters may contain or be contained in other structures or may be constructed separately, and in addition to shelter use may be used for any accessory use permitted in the district, subject to the district regulations on such use. Fall-out shelters constructed completely below the ground level, except for a vent not exceeding 30 inches in height above ground level, may be contained within any yard area.

- i. An accessory building, except for a detached garage or other accessory building (as defined in b above), must not be any closer to the road right-of-way than the principal building or 300 feet.

Within the "A-1" district, a detached garage may be located within the front yard provided it is no closer than 100 feet to the road right-of-way or ten feet to any adjoining property line or any other principal or accessory building.

- j. Within any "R-1" or "R-2" districts, on platted residential lots of less than 12,000 square feet, a detached garage of no more than 720 square feet is allowed.
- k. On lots less than 5,000 square-foot area, the maximum percentage building coverage of the lot shall be 2,100 divided by the square root of the area. (Where area equals the lot area in square feet.)

(Amended by: Ord. No. 105, 5-8-95; Ord. No. 133, 6-1-04; Ord. No. 143, § 12, 11-12-07)

200.605 - Home occupations.

Sec. 6.5. Any home occupation operated in a single dwelling unit may be operated only if it complies with all of the following conditions:

- a. Is operated in its entirety within the single dwelling, garage or accessory building, and only by the person, or persons, maintaining a dwelling therein. Any home occupation intended to occupy a garage or accessory building shall obtain a special exception.
- b. Does not have any employees, or regular assistants not residing in the dwelling; except for offices of doctors, dentists or other similar practitioners.
- c. That dwelling does not have any exterior evidence, other than a permitted sign, to indicate that the building is being utilized for any purpose other than that of a dwelling.
- d. That the occupation conducted therein is clearly incidental and secondary to the residential use of the building.
- e. That no goods, or services are sold, displayed or demonstrated which are not produced on the property by the immediate members of the family therein.
- f. Noise or other objectional characteristic incident thereto shall not be discernible beyond the boundaries of the lot.
- g. The home occupation does not utilize more than 20 percent of the gross floor area, but not to exceed 300 square feet, in the single unit dwelling including attached garage.

200.606 - Fencing and screening.

Sec. 6.6.

[a.] *Fencing:*

- [1.] Within any residential district ("R-1", "R-2", "R-3", "R-4" "R-5" and "R-6"), the maximum height for any fencing in the front yard shall be four (4) feet and in the side and rear yards the maximum height shall be six (6) feet. Fencing within the front yard shall be limited to chain link, wood (such as split rail or picket) or commercially

available fencing material in order to maintain visibility for vehicular or pedestrian movement. Opaque fencing may be used within the side and rear yards provided it is composed of commercially available fencing material. For the purpose of not restricting visibility, the rear yard of any lake lot shall be considered a front yard for purposes of fencing regulation.

[2.] Within any commercial district ("C-1" and "C-2") or industrial district ("I-1", "I-2" and "I-3"), the maximum height for any fencing in the front yard shall be six (6) feet and in the side and rear yards the maximum height shall be eight (8) feet. The use of barbed wire shall be subject to review and approval by the Planning Commission during site plan review.

[b.] *Screening:* Except as otherwise provided in this Zoning Ordinance, all commercial or industrial uses shall be screened from an adjoining use located in any residential district by either a wall, fence or landscaping (or combination) to achieve an opaque screen of at least six (6) feet in height. The Planning Commission may waive this requirement or specify the type of screening to be utilized during site plan review.

(Amended by: Ord. No. 138, 2-13-06)

200.607 - Setback from lakes, ponds, streams, rivers.

Sec 6.7. Any building, and the associated septic system, constructed on a lot abutting a lake, stream, or river, (including ponds connected to such lakes, streams, or rivers) shall be set back at least 75 feet from the high-water line, except:

1. Those buildings in existence at the time of passage of this Ordinance.
2. New construction of dwellings or accessory buildings and those that are in existence at the time of passage of this Ordinance, may have a private pond, which is not connected to a lake, stream or river, constructed within 25 feet of such building, if said building does not have a connection to a septic system, otherwise the 75 foot requirement will apply.
3. Where the majority of the property abutting said waterline within 200 feet of a vacant lot has been built upon at the time of passage of this Ordinance, the setback of any building hereafter erected on said vacant lot shall not be required to be greater than, nor shall it be less than, the average setbacks of the nearest dwellings on both sides.

In the event of a controversy concerning the location of the high-water shoreline for the purposes herein set forth, the determination of the Board of Appeals shall be conclusive on such question.

(Amended by: Ord. No. 93, 8-13-90; Ord. No. 126, 4-8-02)

200.608 - Special exceptions; special land use.

Sec. 6.8.

6.81 *Special exception, explanation.* The Planning Commission is authorized to review and approve the establishment of special exception uses that are specifically listed within the zoning ordinance or are so similar in nature as to rely on the same conditions for such consideration. Where such uses are not listed within the zoning ordinance, the Planning Commission may initiate an amendment to the ordinance or an application may be received to include such use in a proposed zoning district. Certain types of uses are required to secure a special use permit to allow them to be placed in one or more zones in which their uncontrolled occurrence might cause unsatisfactory results of one kind or another. A few uses, such as dumps and junk yards, are inherently so objectionable as to make extra regulations and controls advisable even in the zone to which they are permitted. Others, such as gasoline stations, and taverns, must be located with discrimination in relation to their

surroundings. The intent of reviewing such applications is to determine whether such use, subject to conditions, either listed in the zoning ordinance or imposed by the Planning Commission, can become compatible with surrounding land use. Because under certain conditions they could be detrimental to the health, safety, or general welfare of the public, the uses listed as special exceptions are permitted in certain zones only if granted by the Planning Commission. However, a special exception, once implemented, cannot be limited to the present land owner or for a specified period of time. Therefore, whenever a special exception is granted, it may continue indefinitely, unless subject to annual review or with a date certain condition as part of the approval process.

6.82 *Special exception and special land use application and filing request.* The following items should be included in a special land use application.

- a. Applications for the grant of special exceptions shall be filed with the Township Clerk on forms provided therefore. The applicant shall submit plans and specifications or other data or exploratory material stating the methods by which he will comply with the conditions specified for each grant of special exception. At the time of filing this request for a grant of special exception, the petitioner shall pay to the Clerk the prescribed fee. The applicant shall include the following information:
 1. Applicant's name and address.
 2. Statement identifying the landowner, if not the applicant, and the applicant's relationship to the landowner (i.e., land contract, purchaser, optionee, or delegated agent).
 3. Property boundary map and legal description.
 4. Existing uses and structures on the land.
 5. Description of the existing zoning on the parcel and properties immediately adjacent.
 6. An analysis of the planning implications of the proposed development, including (but not limited to) estimated future population and the impact of population on community facilities such as schools and parks; an economic market study justifying the need for any proposed commercial, office, or industrial facilities; a traffic analysis which related the trip generation likely from the proposed development to existing street volume capacities.
 7. A site plan, at least in preliminary form, depicting the general land use arrangement or scheme of the proposed development.
 8. Documents from relevant public agencies.
- b. The Township Clerk or designated person shall then schedule the public hearing at the next regular meeting of the Planning Commission. Notice for such hearing shall comply with the requirements under the Michigan Zoning Enabling Act, 2006 PA 110, as amended. The Planning Commission shall review the application and after the public hearing shall either approve, approve subject to additional conditions or deny the application for special exception, and notify the petitioner and building inspector and/or zoning enforcement officer. Should the Planning Commission deny the request, the rationale shall be that they could not establish conditions in which the use would be considered compatible in that location.

6.83 *Special exception, general provisions.* In hearing a request for any special exception, the Planning commission shall be governed by the following principles and conditions:

- a. The applicant for a special exception shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the board.
- b. A special exception may be granted when the Planning Commission finds from the evidence produced at the

hearing that:

1. The proposed use does not affect adversely the development of Pavilion Township as embodied in this Ordinance and in any master plan or portion thereof adopted by the Pavilion Township Board;
2. The proposed use will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the use or development of adjacent properties or the general neighborhood; and
3. The standards as may be set forth for a particular use for which a special exception may be granted, can and will be met by the applicant.

6.84. *Special exception uses.* (NOTE: Sec. 9.2 becomes Sec. 6.84)

The following special exception uses shall comply with all of the conditions as specified herein, unless the Planning Commission, in their sole reasonable discretion, believes such conditions are not necessary to achieve compatibility with surrounding land use in that specific location. The Planning Commission may also impose additional conditions related to the approval of the special exception use where, in their sole reasonable discretion, they believe such conditions are necessary to protect adjacent properties, the general neighborhood and the residents and workers therein.

| Special Exception Use | Specific Conditions |
|--------------------------------------|-------------------------|
| Adult entertainment | (See Article XIV) |
| Agribusiness or agri-tainment | 2, <u>3</u> , 4, 5c, 11 |
| Animal hospital and kennel | 2, 4, 5e |
| Asphalt and concrete ready-mix plant | 2, 4, 5f |
| Automobile repair garage | 2, 4, 5d, 8 |
| Bar, tavern and night club | 2, 4, 5e |
| Boardinghouse | <u>3</u> , 4, 5b, 11 |
| Bus or truck terminal | 2, 4, 5e |
| Care home | <u>3</u> , 5a, 10 |
| Campgrounds | 4, 5d, 12 |
| Cemetery | 2, <u>3</u> , 5a |
| Children's day nursery | <u>3</u> |

| | |
|---|---------------------|
| Church | 1, 5b |
| Construction and farm equipment sales | 2, <u>3</u> , 5d, 8 |
| Club, private non-commercial | 1, 4, 5b |
| Drive-in theater | 2, 5f, 9 |
| Dump | 2, 5f, 9 |
| Earth removal, excavations commercial | 2, 5e |
| Event barns | (See Article XVII) |
| Gasoline service station | 2, 4, 5d, 7 |
| Golf courses | 2, <u>3</u> , 5d |
| Gravel processing and quarrying | 2, 4, 5f |
| Hospital | 2, <u>3</u> , 5c |
| Institutions, charitable, eleemosynary, philanthropic | 1, <u>3</u> , 5c |
| Junk yards, building material salvage yard | 2, 4, 5f, 9 |
| Kennel | 2, 4, 5e |
| Liquor, package sale | 5d |
| Living quarters for watchman | <u>3</u> , 5a |
| Medical clinic | 1, 4, 5e |
| Mobile home sales | 2, 4, 5e |
| Nursery, children | 1, 4, 5a |
| Offices and office buildings | 2, 4, 5a |
| Planned Unit Development | (See Article XIII) |
| Public utility buildings and structures | 1, 4, 5a, 9 |

| | |
|---------------------------------------|-------------------|
| Quarrying | 2, 4, 5f |
| Recreation, commercial; outdoors | 2, 4, 5e |
| Riding stable; race track; commercial | 2, 4, 5f |
| School, parochial and private | 1, 5b |
| Slaughter house | 2, 4, 5f |
| Truck terminal | 2, 4, 5e |
| Used car lot | 2, 4, 5e, 8 |
| Volunteer or Township fire station | 2, 4, 5c |
| Wind Energy Conversion Systems | (See Article XV) |
| Wireless Telecommunication Facilities | (See Article XII) |

The specific conditions enumerated below are referred to by the numbers following each special exception use:

1. The use shall have frontage on an existing or officially proposed road having a primary or greater classification.
2. The use shall have frontage on an existing or officially proposed county road.
3. The use shall have off street parking facilities to satisfy average parking needs.
4. The use shall have off street parking facilities to satisfy peak parking needs.
5. Such activities (including buildings and parking areas) shall be located no less than the following number of feet from any residential (R-1 through R-6) zoning district:
 - a - 25 feet
 - b - 50 feet
 - c - 100 feet
 - d - 200 feet
 - e - 500 feet
 - f - 1,000 feet
6. Public utility buildings shall, whenever practicable, have an exterior appearance similar to those buildings in the immediate area. The public utility buildings and structures shall have suitable landscaping, screen planting and fencing whenever deemed necessary by the Planning Commission.

7. Gasoline pumps or other service appliances shall be set back at least 20 feet from the lot line.
8. No major repairs or dismantling shall be permitted outside of a closed structure.
9. The use shall be enclosed by a solid wall or compact screening of suitable material as determined by the Planning Commission and shall not be less than six feet in height.
10. Adjacent same uses shall be at least 1,500 feet apart.
11. The minimum size parcel of land shall be 20 acres.

Additional condition for agri-tainment: Any driveways utilized for access by patrons during events shall be constructed with an improved surface (compacted gravel base) of at least 20 feet in width and have a height clearance of at least 14 feet in order to support emergency vehicles. Parking areas shall be clearly identified and meet space size (180 square feet) and drive aisle width of at least 20 feet.

Additional condition for boardinghouse: The maximum number of bedrooms shall be based upon three bedrooms for the first 1,000 square feet and an additional 250 square feet within the dwelling for each bedroom thereafter, up to a maximum of eight bedrooms per dwelling. Each bedroom shall be limited to a maximum of two adult guests, with the maximum number of guests within any boardinghouse of 16 adults, plus a resident family that may have living quarters in the dwelling.

6.85. *Special exception uses.* The following uses shall be allowed only as a special exception use in districts indicated:

- a. Telecommunication towers and antennas in A-1, A-2, C-1, C-2, I-1, I-2, and I-3.

(Amended by: Ord. No. 105, 5-8-95; Ord. No. 118, 5-8-00; Ord. No. 132, 8-11-03; Ord. No. 133, 6-1-04; Ord. No. 139, § 8, 9-8-06; Ord. No. 148, 5-9-11; Ord. No. 151, §§ 3—6, 8-13-12; Ord. No. 163, § 3, 12-10-18)

200.609 - Gravel pit regulation.

Sec. 6.9. All gravel pits within Pavilion Township shall be filled in and leveled off leaving no holes, and kept in a safe condition by the owners, lessees, or users of premises which have gravel pits.

Cross reference— Litter, debris and earth levelling, § 110.002(g).

200.610 - Use of temporary mobile homes.

Sec. 6.10. Mobile homes, house trailers and trailer coaches which are not within camps therefor having adequate water and sanitary facilities, shall not be used for residence purposes for more than 14 days in any calendar year; unless one of the residents therein is actively engaged in the construction of a dwelling on the premises and in such case the same shall not be used for residence purposes for more than 18 months; or unless one of the residents therein is a migratory worker and in such case such use may be for not more than 90 days, provided there is issued to such migratory worker a permit, without cost, which states the time of commencement of such use, before commencement of such use.

200.611 - Animal regulations.

Sec. 6.11.

- a. *Within residential districts ("R-1" through "R-6):*

1. The keeping of four or more dogs within the premises of a recorded plat or similar residential development areas shall be prohibited; provided;
2. No livestock (pigs, hogs, poultry, cattle, horses, rabbits or non-domestic pets) shall be allowed to be kept

within recorded plats, or similar residential development areas, at any time;

3. No exotic animals of any kind shall be permitted within residential zones.

b. *Within agricultural districts ("A-1" and "A-2"):*

1. On lots of less than ten acres, the grazing of livestock, the keeping of poultry, wild fowl, rabbits is prohibited within 50 feet or any recorded plat or similar residential development area.

2. The keeping of livestock is not permitted on lots of less than one acre. On lots between one and ten acres, the keeping of livestock at a rate exceeding one-half animal unit per acre is not permitted. Animals not specifically listed under the animal unit definition shall be interpreted based upon general size and weight.

3. The keeping of four or more dogs shall be subject to regulation as a commercial kennel. Any exotic animals may only be permitted within zoological parks or wildlife game preserve.

c. *No wildlife shall be permitted in any area.*

(Amended by: Ord. No. 105, 5-8-95; Ord. No. 143, § 13, 11-12-07; Ord. No. 156, 10-10-16)

200.612 - Public roads.

Sec. 6.12. All dwellings and commercial and industrial buildings shall be located upon premises with a frontage on a road dedicated to the public, which road shall be not less than 66 feet wide, and shall be fully constructed and improved to Kalamazoo County Road specifications, or bonded therefore to the Township or County before occupation of such building shall be permitted.

200.613 - Riparian lot use regulations.

Sec. 6.13.

A. In all residential districts, where a vacant parcel of land is contiguous to a lake, river, stream or pond, such vacant parcel of land may be used and developed as a recreational park for the purpose of gaining riparian access and enjoyment to said body of water for the owners and occupants to two or more residential lots or dwelling units which are located within one-quarter mile of such recreational park, subject to the following conditions:

1. There shall be full compliance with the terms, conditions, and limitations imposed by all Pavilion Township Ordinances.

2. Said recreational park shall contain a lot depth of at least 150 feet and at least 20 lineal feet of water frontage for each dwelling unit to which said privileges are extended or dedicated.

3. In no event shall such recreational park have less than 165 lineal feet of water frontage, regardless of the number of dwelling units to which such privileges are extended.

4. The recreational park shall remain free of buildings or other man-made structures except fences and docks.

5. In no event shall such recreational park include a swamp, marsh, bog or other wet land, either (a) as shown on the most recent United States Geological Survey maps, or (b) as may be so designated by the Michigan Department of Natural Resources. The Pavilion Township Zoning Board of Appeals may grant a variance from this requirement upon satisfactory proof that the recreational park so shown or designated is or can legally and practically be made safe and adequate for the purpose, with sufficient dry land and drainage. Any such variance shall be conditioned upon obtaining required permits, if any, from relevant governmental agencies, and shall be conditioned upon the performance of any filling, grading or other work required to render the recreational park suitable for the intended use.

6. No man-made channel, peninsula, or other man-made feature shall be included in the computations of

depth, frontage or other requirements of these conditions.

7. The recreational park shall not be separated from any privileged lot by any waterway, public or private road, railway facility, or other source of vehicular traffic to the extent that the owner of any privileged lot has no access to the recreational park except by crossing such waterway road, facility or other sources of vehicular traffic.
 8. In no event shall the storage or launching of boats be permitted on such recreational park property except by residents of the privileged lots contiguous to such park.
 9. One dock shall be permitted at such recreational park. Such dock shall not extend more than 50 feet beyond the shoreline except if it is necessary to reach a water depth of three feet; provided further that in no event shall a dock extend more than 100 feet beyond the shoreline. Such dock shall be at least ten feet from the nearest property line as projected into a public body of water. No structure shall be constructed or placed upon or adjacent to a dock that will block the natural view of persons, either on shore or water.
- B. Except as set forth in the preceding part A, no parcel of land contiguous to a body of water shall be used to provide access to such body of water to owners of more than one additional parcel of land, or to the public in general.

200.614 - Schedule of lot, yard and area requirements.

Sec. 6.14.

Schedule of Lot, Yard and Area Requirements (Agricultural/Residential)

| | A-1 | A-2 | R-1 | R-2 | R-3** | R-4 | R-5 | R-6* |
|---|-------------------|-------------------------|---|---|----------------------|--------|--------|------|
| Minimum lot frontage, lot width (feet) ⁹ | | | | | | | | |
| Single family | 132 | 660 | 132 without sewer 110 with sewer | 132 without sewer 110 with sewer | 90 feet | — | — | — |
| Two family | — | — | — | — | 110 feet | 132 | 132 | — |
| Multiple family | — | — | — | — | — | 132 | 132 | — |
| Minimum lot area per dwelling unit (sq. ft.) ⁹ | | | | | | | | |
| Single family | 43,560 | 40 acres | 29,040 without sewer (2/3 of an acre) 14,520 with sewer (1/3 of an acre) | 29,040 without sewer (2/3 of an acre) 14,520 with sewer (1/3 of an acre) | 10,890 (1/4 acre) | — | — | — |
| Two family ⁸ | — | — | — | — | 21,780 (1/2 acre) | 10,890 | 10,890 | — |
| Multiple family ⁸ | — | — | — | — | — | 8,712 | 4,356 | — |
| Maximum building or structure height (feet) | | 40 (Non-farm buildings) | 35 | 35 | 35 | 35 | 50 | 75 |
| Maximum building coverage of lot (%) | 15 | 15 | 15 | 30 | 30 | 30 | 35 | — |
| Minimum floor area per dwelling unit (sq. ft.) | | | | | | | | |
| Single family | 864 ¹² | 864 | 864 ¹² | 864 ¹² | 864 ¹² | 864 | 800 | — |

| | | | | | | | | |
|---|----|----|-----------------------------------|-----------------------------------|-----|--------------------|--------------------|-----------------|
| Two family | — | — | — | — | 720 | 700 | — | |
| Multiple family | — | — | — | — | 720 | 500 | — | |
| Minimum building width (feet) | 24 | 24 | 24 | 24 | 24 | 24 | 24 | — |
| Minimum front yard setback from right-of-way (feet) ^{1, 6, 9} | 67 | 67 | 40 | 40 | 40 | 40 | 30 ^{3, 7} | 30 ³ |
| Minimum side yard (feet) ^{2, 9} | 10 | 50 | 10 | 10 | 10 | 10 ^{4, 7} | 10 ⁴ | — |
| Minimum rear yard setback (feet) | 40 | 40 | 40 without sewer 30 with sewer | 40 without sewer 30 with sewer | 30 | 30 | 30 ^{5, 7} | 30 ⁵ |
| <i>Accessory Buildings (See sec. 9.4) [Note: section 9.4 is now section 200.604] ¹³</i> | | | | | | | | |
| Maximum building height (feet) | | 30 | 20 | 20 | 20 | 20 | 20 | — |
| Maximum building coverage (% of lot) ^{***} | 5 | 5 | 5.0 | 5.0 | 5.0 | 5 | 5 | — |
| Minimum rear yard setback (feet) | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| *See 10. | | | | | | | | |
| **Public sewer is required for all developments within the R-3 District. | | | | | | | | |
| ***This maximum building coverage % shall not include an accessory building containing less than 120 square feet. | | | | | | | | |

1. Where the majority of the frontage along one side of a street within 500 feet of a vacant lot has been built upon at the time of passage of this Ordinance, any building hereafter erected on said vacant lot shall not be required to be more than the average setback of the improved frontage.
2. On corner lots, the width of the side yard adjacent to the side street shall be equal to the front yard setback of the lot adjoining the rear of said corner lot. When the lot adjoining said corner lot along the rear line, does not front on the side street of the corner lot, the side yard shall not be less than two-thirds the front yard setback required for that district. For land platted prior to July 9, 1956, refer to previous Ordinance.
3. Or equal the height of the building whichever is greater.
4. Or one-half the height of the building whichever is greater.
5. Or three-fourths the height of the building whichever is greater.
6. Where property is contiguous to an existing or an officially proposed state trunkline or expressway, the minimum front, side or rear yard contiguous thereto shall be increased in depth so as to permit a: (1) 120 feet right-of-way for state trunklines; (2) 300 feet right-of-way for expressways.
7. The minimum distance between multiple family buildings within a single project area shall be as follows:
 - a. Where buildings are front to front or front to rear; two times the height of the taller building but not less than 50 feet.
 - b. Where buildings are side to side, if there are not windows on the side walls; a distance equal to the height of the taller building but not less than 20 feet.
 - c. Where buildings are front to side or rear to side, if there are no windows on the side walls, one and one-half (1½) times the height of the taller building but not less than 30 feet.
 - d. Where buildings are rear to rear and side to side with windows on the side walls; one and one-half (1½) times the height of the taller building but not less than 40 feet.
 - e. When a roadway is located between two buildings, the width of the roadway shall be in addition to the above

minimum distance between buildings.

8. Minimum lot—One acre.
9. For land platted prior to July 9, 1956, refer to Appendix A.
10. Refer to Section 8.9 and P.A. 96, 1987. [Note: section 8.9 is now section 200.410]
11. [Deleted by Ord. No. 130, adopted May 12, 2003.]
12. A one story single family dwelling shall contain not less than 864 square feet for a two bedroom dwelling, 1,000 for three bedrooms, plus an additional 140 square feet for each additional bedroom of a one-story dwelling; and not less than 720 square feet of floor space on the first floor of two or more story dwellings, exclusive of breezeway and garage floor areas.
13. [Deleted by Ord. No. 143, adopted November 12, 2007.]

Schedule of Lot, Yard and Area Requirements (Commercial/Industrial)

| | C-1 | C-2 | I-1 | I-2 | I-3 |
|--|--------|--------|---------|--------|--------|
| Minimum lot frontage, lot width (feet) | 66' | 66' | 300 | 165 | 165 |
| Minimum lot area (sq. ft.) | 21,780 | 21,780 | 200,000 | 43,560 | 43,560 |
| Maximum building or structure height (feet) | — | — | — | — | — |
| Maximum building coverage of lot (%) | 75 | 75 | 20 | 30 | 30 |
| Minimum front yard setback from right-of-way ¹ (feet) | 67 | 67 | 100 | 100 | 100 |
| Minimum side yard ² (feet) | 10 | 10 | 50 | 25 | 25 |
| Minimum rear yard | 20 | 20 | 50 | 25 | 25 |

| Accessory Buildings (See sec. 9.4) [Note: section 9.4 is now <u>section 200.604</u>] | | | | | |
|---|----|----|----|----|----|
| Minimum building setback from right-of-way ³ | 67 | 67 | 67 | 67 | 67 |
| Minimum side yard ² (feet) | 10 | 10 | 25 | 15 | 15 |
| Minimum rear yard (feet) | 20 | 20 | 25 | 15 | 15 |
| Maximum coverage (% of lot) | 10 | 10 | 10 | 10 | 10 |

1. Where the majority of the frontage along one side of a street within 500 feet of a vacant lot has been built upon at the time of passage of this Ordinance, any building hereafter erected on said vacant lot shall not be less than the average setback of the improved frontage.
2. On corner lots, the width of the side yard adjacent to the side street shall be equal to the front yard setback of the lot adjoining the rear of said corner lot. When the lot adjoining said corner lot along the rear line, does not front on the side street of the corner lot, the side yard shall not be less than two-thirds the front yard setback required for that district.

The setback or yard area of any commercial or industrial use, or activity associated thereto, maintained on a parcel of land adjacent to a residential or agricultural district shall be two times that required within the district as specified above, or a minimum of 100 feet whichever is greater; and said use or activity shall be effectively screened by compact evergreens, fence or wall, from any adjacent residential district.

Where property is contiguous to an existing or an officially proposed state trunkline or expressway, the minimum front, side or rear yard contiguous thereto shall be increased in depth so as to permit a: (1) 120 feet right-of-way for state trunklines; (2) 300 feet right-of-way for expressways.

3. Accessory buildings shall not be closer to the street than the principal building.

(Ord. No. 93, 8-13-90; Ord. No. 105, 5-8-95; Ord. No. 111, 5-12-97; Ord. No. 123, 11-12-01; Ord. No. 130, 5-12-03; Ord. No. 132, 8-11-03; Ord. No. 133, 6-1-04; Ord. No. 134, 9-13-04; Ord. No. 143, § 14, 11-12-07; Ord. No. 156, 10-10-16)

200.615 - Table of uses.

Sec. 6.15.

Permitted Uses Within Districts
for Pavilion Township

X for Permitted Uses

S.E. for Special Exceptions

| Use | A-1 | A-2 | C-1 | C-2 | I-1 | I-2 | I-3 |
|--|-----|-----|-----|-----|-----|-----|-----|
| Accessory uses and buildings | | X | X | X | X | X | X |
| Adult entertainment | | | | | | SE | |
| Agriculture | | | SE | SE | X | X | X |
| Animal hospital | | | | SE | | | |
| Apartment houses | | | | | | | |
| Appliances; sales and service | | | X | X | | | |
| Asphalt and concrete, ready-mix plants | | | | | | | SE |
| Automobile sales room and adjoining outdoor sales area | | | | X | | | |
| Automobile repair garage | | | | X | | | X |
| Bakery, retail sales only | | | X | X | | | |
| Banks, savings and loan association | | | X | X | | SE | |
| Bar and tavern | | | | SE | | | |
| Barber and beauty shop | | | X | X | | | |
| Boats and equipment; sales | | | | X | | | |
| Books, stationery and newspapers | | | X | X | | | |

| | | | | | | | |
|---|--|---|----|----|---|----|---|
| Bowling centers | | | | X | | | |
| Bulk storage facility | | | | SE | | | X |
| Child care centers | | | | | | X | |
| Churches | | | X | X | | | |
| Clothing and dry goods | | | X | X | | | |
| Clubs, private | | | | X | | | |
| Construction and farm equipment sales | | | | SE | | | X |
| Contractor's equipment yard | | | | | | | X |
| Contractor's work shops | | | | X | | X | X |
| Convenience stores | | | X | X | | SE | |
| Dairy products, production and processing | | X | | | | | |
| Drive-in eating establishment | | | | X | | | |
| Drug store and pharmaceuticals | | | X | X | | | |
| Excavating, commercial | | | | SE | | | |
| Farming and agricultural use except intensive | | X | | | | | |
| Fertilizer processing and chemical sales | | X | | | | | |
| Fire station, municipal volunteer | | | | SE | | | |
| Florist and garden shop | | | X | X | | | |
| Fuel and feed yards | | | | | | | X |
| Funeral establishments | | | | X | | | |
| Furniture and household furnishings | | | | X | | | |
| Gasoline service stations | | | SE | SE | X | SE | X |

| | | | | | | | |
|---|--|---|----|----|---|----|----|
| Gift shop | | | X | X | | | |
| Grain equipment and processing | | X | | | | | X |
| Grain elevator/bulk storage of feed grains | | X | | | | | |
| Greenhouse and nursery, commercial | | X | | X | | | |
| Groceries and foodstuffs | | | X | X | | | |
| Hardware store | | | X | X | | | X |
| Hobby shop | | | X | X | | | |
| Horticulture | | X | | | | | |
| Hotel/Motel | | | | X | | | |
| Ice and cold storage plant | | | | | | | X |
| Industry, light | | | | X | X | X | SE |
| Junk yards, building material salvage yards | | | | | | | SE |
| Kennels | | X | | | | | |
| Laundromat and dry cleaning | | | X | X | | | |
| Liquor, package sales | | | SE | SE | | | |
| Livestock sales facilities | | X | | | | | |
| Living quarters; employees | | X | | | | | |
| Lumber, bldg. supplies | | | | | | X | X |
| Machine shop | | | | | X | X | X |
| Machinery and equipment sales; indoors | | | | X | | | X |
| Manufacturing; indoors | | | | | X | X | X |
| Material recovery facility | | | | | | SE | |

| | | | | | | | |
|--|--|----|----|----|----|----|---|
| Meat processing/packaging, enclosed bldg. | | X | | | | | |
| Medical clinic | | | X | X | | | |
| Mobile Home Sales | | | | X | | | |
| Music and dancing schools | | | X | X | | | |
| Offices, business and professional | | | X | X | SE | X | |
| Packaging | | X | | | X | X | |
| Photography store and blueprinting | | | X | X | | | |
| Preparation of feeds, animal/fowl | | X | | | | | |
| Printing; lithographic and similar uses | | | | | X | X | |
| Processing/compounding commodities | | | | | X | X | |
| Processing, packaging and production of fruits, vegetables and specialties | | X | | | | | |
| Public utility buildings | | | SE | SE | X | X | X |
| Publicly owned and operated buildings and uses | | | X | X | X | X | X |
| Radio and television, service | | | X | X | | | |
| Recreation, commercial, indoors | | | | X | | | |
| Recreation, commercial, outdoors | | | | SE | | | |
| Recycling center | | | | | | SE | |
| Restaurant | | | X | X | | SE | |
| Retail, general | | | | SE | | | |
| Riding stable, race track | | SE | | SE | | | |
| Sawmill | | X | | | | | |

| | | | | | | | |
|--|----|----|----|----|----|----|----|
| Shoe sales and repair | | | X | X | | | |
| Signs | | X | X | X | X | X | X |
| Slaughterhouse | | SE | | | | | SE |
| Soil mixing; commercial | | X | | | | | |
| Storage; rental | | | X | X | X | X | X |
| Tailoring and dressmaking | | | X | X | X | X | |
| Telecommunication towers and antennas | SE | SE | SE | SE | SE | SE | |
| Truck terminal, maintenance and service yard | | | | SE | X | X | X |
| Variety stores, antiques, gifts | | | X | X | | | |
| Veterinarian services | | X | | | | | |
| Warehouses; fully enclosed | | | | | X | X | X |
| Waste transfer station, disposal plant | | | | | | | X |
| Wholesale distributor of goods and merchandise | | | | | X | | |
| Winery | | X | | | | | |

(Ord. No. 105, 5-8-95; Ord. No. 118, 5-8-00; Ord. No. 130, 5-12-03; Ord. No. 139, § 6, 9-8-06)

ARTICLE VII

200.700 - ADMINISTRATION AND ENFORCEMENT

200.701 - Administration.

Sec. 7.1. The provisions of this Ordinance shall be administered by such person or persons whom shall be designated by the Township officials in accordance with the applicable State statute.

200.702 - Enforcement.

Sec. 7.2. The provisions of this Ordinance shall be enforced by such official as may be from time to time designated by resolution of the Township officials.

200.703 - Violations.

Sec. 7.3.

- a. Buildings erected, altered, moved, razed, or converted, or any use of land or premises carried on in violation of any provision of this Ordinance are declared to be a nuisance per se. Any and all buildings or land use activities considered possible violations of the provisions of this Ordinance observed by or communicated to any Township employee or official shall be reported to the zoning enforcement officer.
- b. The zoning enforcement officer shall inspect each alleged violation and shall order correction, in writing or by posting the premises, of all conditions found to be in violation of this Ordinance.
- c. An appeal may be taken to the Board of Appeals by any person alleging error in any administrative order concerning the enforcement of this Ordinance.
- d. All violations shall be promptly corrected after receipt of notification thereof by writing or by posting premises by the zoning enforcement officer. A violation not so corrected shall be reported to the Township attorney who shall initiate enforcement procedures.

(Amended by: Ord. No. 155, 8-8-16)

200.704 - Penalties.

Sec. 7.4.

- a. A violation of the Ordinance is a municipal civil infraction, for which the fine shall be not less than \$50.00 nor more than \$500.00 for the first offense and not less than \$100.00 nor more than \$2,500.00 for subsequent offenses, in the discretion of the Court, and such fine shall be in addition to all other costs, attorney fees, damages, expenses, and other remedies as provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person for the same property within twelve months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses.
- b. In addition to pursuing a municipal civil infraction proceeding pursuant to subsection a. hereof, the Township may also institute an appropriate action in a court of competent jurisdiction seeking injunctive, declaratory, or other equitable relief to enforce or interpret this Ordinance or any provision of the Ordinance.
- c. All remedies available to the Township under this Ordinance and Michigan law shall be deemed to be cumulative and not exclusive.
- d. Any use of land that is commenced or conducted, any activity, or any building, item or structure that is erected, moved, used, placed, reconstructed, razed, extended, enlarged, altered, maintained, or changed, in violation of any provision of this Ordinance is also hereby declared to be a nuisance per se.
- e. Each and every day during which a violation of this Ordinance shall exist shall be deemed to be a separate offense.
- f. Any person, firm or entity that assists with or enables the violation of this Ordinance shall be responsible for

aiding and abetting, and shall be considered to have violated the provision of this Ordinance involved for which such aiding and abetting occurred. Furthermore, any attempt to violate this Ordinance shall be deemed a violation of the provision of this Ordinance involved as if the violation had been successful or completed.

(Amended by: Ord. No. 155, 8-8-16)

ARTICLE VIII

200.800 - BOARD OF APPEALS

200.801 - Establishment of a Zoning Board of Appeals.

Sec. 8.1. There shall be a Zoning Board of Appeals as provided by the Michigan Zoning Enabling Act (P.A. 110 of 2006, as may be amended) which shall have the powers and duties prescribed by law. The Zoning Board of Appeals shall consist of five (5) regular members and may have to two (2) alternate members. One regular member shall be a member of the Township Planning Commission. One regular member may be a member of the Township Board, provided that member shall not serve as the Chairperson of the Zoning Board of Appeals. The remaining members of the Zoning Board of Appeals shall be selected from the electors residing within the Township, excluding those persons living within any incorporated cities or villages. They shall be appointed for three-year terms unless serving as members of the Planning Commission or Township Board, in which instance they shall be representative of the general population within the Township. A majority of the regular members of the Planning Commission shall be present to hold a meeting. An alternate member may serve in the absence of a regular member upon request of the Chairperson of the Zoning Board of Appeals. The alternate member may also be requested to serve when the regular member is determined to have a conflict of interest relating to a matter before the Zoning Board of Appeals. The alternate member shall serve until the regular member can attend or no longer has a conflict of interest. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.

(Ord. No. 139, § 7, 9-8-06)

200.802 - Authority of the Board of Appeals.

Sec. 8.2.

- a. *Review:* The Zoning Board of Appeals shall have authority to review, hear and decide appeals related to any determination made by the Zoning Administrator, or any administrative official charged with enforcement of the Zoning Ordinance. Such decision or determination shall not include appeals of use-related issues associated with special exception uses or rezoning requests.
- b. *Interpretation:* The Zoning Board of Appeals shall have the authority to interpret the provisions of the Zoning Ordinance and/or determine the appropriate district in which a use, not otherwise listed, should be considered. Formal amendments to the Zoning Ordinance shall be initiated by the Planning Commission following interpretation by the Zoning Board of Appeals. Such interpretation can be requested by the Zoning Administrator, the Planning Commission or the Township Board or upon appeal by an applicant related to the Zoning Administrator's determination.
- c. *Variances:* The Zoning Board of Appeals shall have the authority to grant non-use variances related to a numerical or dimensional requirement within the Zoning Ordinance. Generally, the application shall specify the variance(s) requested and indicated the practical difficulties associated in carrying out the strict letter of the

Zoning Ordinance so that the spirit of the Ordinance shall be observed, public health and safety secured and substantial justice done. In making their decision, the Zoning Board of Appeals shall consider the following standards:

1. That the variance will not permit the establishment of a use that is not allowed as a permitted or special exception use within the zoning district in which the property is located.
2. That compliance with the strict letter of the ordinance would unreasonably prevent the owner or applicant from using the property for a permitted use.
3. That the variance applied for would do substantial justice to the applicant or would give substantial relief to the applicant consistent with the justice to other property owners in the surrounding area.
4. That the hardship asserted by the applicant is not self-created and is clearly based upon the unique characteristics of the property.

In granting a variance, the Zoning Board of Appeals may impose such conditions that, in their judgment, will secure the objectives of the regulation or provision to which the variance applies and will satisfy the standards listed above for such approval.

(Ord. No. 133, 6-1-04; Ord. No. 139, § 7, 9-8-06)

200.803 - Limitation of authority of the Board of Appeals.

Sec. 8.3.

- a. Nothing contained in this section shall be deemed to authorize the board to reverse or modify any refusal of a permit or any other order, requirement, decision, or determination which conforms to the provisions of this Ordinance and which, therefore, is not erroneous; nor to authorize the board to validate, ratify, or legalize any violation of law or any of the regulations of this Ordinance.
- b. The board shall not amend any portion of this Ordinance or the zoning map.
- c. A decision of the board permitting the erection or alteration of a building or other use of land shall be valid for a period of six months, during which time a building permit for such erection or alteration must be obtained and the erection or alteration started.
- d. No application for a variance which has been denied wholly or in part by the board shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the board to be valid.
- e. Variances are granted to the property and not to the property owner.

200.804 - Application for variances, appeals.

Sec. 8.4.

- a. Requests for variances, or appeals may be made by submitting an application (or letter) to the Pavilion Township clerk. A fee as determined by the Pavilion Township Board shall accompany the application to help defray cost of processing said application.
- b. A site plan, plot plan or development plan of the total property involved, showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their uses, shall be submitted with each request for a variance or appeal.

(Ord. No. 133, 6-1-04)

ARTICLE IX

200.900 - AMENDMENTS AND REZONING REQUESTS

200.901 - Amendments.

Sec. 9.1. Any person, firm, or corporation seeking to have property within Pavilion Township rezoned shall pay a fee, as established by the Township Board, to the chairman or secretary of the Planning Commission at the time of making a request for said rezoning.

(Ord. No. 13, 3-20-65; Ord. No. 26, 5-6-68; Ord. No. 91, 2-12-90; Ord. No. 133, 6-1-04)

200.902 - Special exception uses.

Sec. 9.2. [Note: Ord. No. 151, adopted Aug. 13, 2012, amended and relocated § 200.902 to § 200.608, § 6.84.]

ARTICLE X

200.1000 - SEVERABILITY, CONFLICTS, REPEAL

200.1001 - Validity or severability clause.

Sec. 10.1. Should any section, subsection, clause or provision of this Ordinance be declared by the courts to be invalid, such decision shall not affect the validity of the Ordinance in its entirety or of any part thereof, other than that portion so declared to be invalid.

200.1002 - Conflict with other laws.

Sec. 10.2. Except for section 8.9, whenever the requirements of this Ordinance are at variance with the requirements of other lawfully adopted rules, regulations, or Ordinances, the most restrictive, or that imposing the higher standards, shall govern. [Note: section 8.9 is now section 200.410]

200.1003 - Repeal of prior Ordinances.

Sec. 10.3. Section 1 through and including section 13 of the Zoning Ordinance adopted by Pavilion Township on July 9, 1956 and all amendments thereof are hereby repealed effective coincident with the effective date of the adoption of this Ordinance. [Note: section 1 is now section 200.101 and section 13 is now section 200.614]

ARTICLE XI

200.1100 - EFFECTIVE DATE

200.1101 - Effective date of Ordinance.

Sec. 11.1. This Ordinance was adopted February 12, 1990 and shall become effective March 19, 1990, 30 days from publication of notice of enactment and summary. Published February 17, 1990 in the Kalamazoo Gazette, Kalamazoo, Michigan.

ARTICLE XII

200.1110 - WIRELESS TELECOMMUNICATIONS FACILITIES AND TOWERS

200.1111 - Purpose.

[Sec.] A. The purpose of this ordinance [article] is to establish general and specific guidelines for the siting of wireless communications towers and antennas. The goals of this ordinance [article] are to: (1) protect residential areas and land uses from potential adverse impacts of towers and antennas; (2) encourage the location of towers in non-residential areas; (3) minimize the total number of towers throughout the community; (4) strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; (5) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (6) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; (7) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently; (8) consider the impact of communication towers on public health and safety; and (9) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Township shall give due consideration to the Township's Land Use Plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

(Ord. No. 118, 5-8-00)

200.1112 - Definitions.

[Sec.] B.

1. "Abandonment" means: (1) to cease operation for a period of 60 or more consecutive days; (2) to reduce the effective radiated power of an antenna by 75 percent for 60 or more consecutive days; or (3) to reduce the number of transmissions from an antenna by 75 percent for 60 or more consecutive days.
2. "Adjacent zoning lot" means: (1) a zoning lot which borders upon or abuts the subject zoning lot at any point; or (2) a zoning lot which is separated from the subject zoning lot by a street, alley, or other public or private easement even if its property line does not abut or touch the subject zoning lot.
3. "Alternative tower structure" (ATS) or "stealth tower" means manmade trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
4. "Ancillary facilities" means the buildings, cabinets, vaults, closures and equipment required for operation of telecommunication Systems including but not limited to repeaters, equipment housing, and ventilation and other mechanical equipment.
5. "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals,

- including, but not limited to, directional antenna or "panel" antenna, omni-directional antenna, or "whip" antenna.
6. "Antenna structure or support" means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.
 7. "Application" means the process by which the owner of a parcel of land submits a request to develop, construct, build, modify, or erect a transmission tower upon such parcel of land. Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the city concerning such a request.
 8. "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
 9. "Construction of an ATS" means the erection, installation, or modification of an ATS or the attachment of an antenna to an existing alternative-design mounting structure.
 10. "C-location" means placement of an antenna or other equipment for more than one provider on an existing transmission tower, building, light or utility pole or other similar facility where the antenna and all supports are located on the existing structure.
 11. "FAA" means the Federal Aviation Administration.
 12. "FCC" means the Federal Communications Commission.
 13. "Height" or "tower height" means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
 14. "Person" is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
 15. "Personal wireless service", "personal wireless service facilities", and "facilities" used in this ordinance [article], shall be defined in the same manner as in Title 47, United States Code, Section 332(c)(7)(C), as they may be amended now or in the future and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.
 16. "Provider" is a person in the business of designing and using telecommunication facilities, including cellular, radio, telephones, personal communication services, and hand/specialized mobile radios, and commercial paging services.
 17. "Telecommunications facilities" means any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a transmission tower or antenna support structure. However, the term telecommunications facilities shall not include any satellite earth station antenna one meter or less in diameter, regardless of zoning category.
 18. "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term encompasses personal wireless service facilities as provided in Title 47 US Code, Section 332, as amended, including radio and television towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto. For the purposes of this section [article], amateur radio transmission facilities are not transmission towers.

(Ord. No. 118, 5-8-00)

200.1113 - Applicability.

[Sec.] C.

1. *New towers and antennas.* All new towers and antennas in the township shall be regulated pursuant to this section [article], except as provided in subsection C [200.1113] 2., and they shall not be regulated or permitted as essential services, public utilities, or private utilities.
2. *Amateur radio station operator and/or receive only antennas.* This section [article] shall not govern any tower, or the installation of any antenna, that is under 50 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

(Ord. No. 118, 5-8-00)

200.1114 - Special exception use.

[Sec.] D. Telecommunication towers may be allowed as a special exception use in the A-1, A-2, C-1, C-2, I-1, I-2, and I-3 Zoning Districts subject to the provisions below.

1. *General requirements.* The following provisions shall govern the issuance of special exception use permits for towers by the Planning Commission:
 - (i) Applications for special exception use permits under this section (article) shall be subject to the procedures and requirements of the Zoning Ordinance pertaining to special exception uses under section 6.8.
 - (ii) In granting a special exception use permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties or to otherwise further the goal of this section [article].
 - (iii) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
 - (iv) Public notice. Any special exception use request for a new tower under this section (article) shall require notification to all abutting property owners consistent with the notification requirements under 2006 PA 110 (MCL 125.3101 et seq.), as may be amended.
2. *Towers.*
 - (i) *Information required.* In addition to any information required for applications for special exception use permits of the Zoning Ordinance, applicants for a special exception use permit for a tower shall submit the following information:
 - (a) A scaled site plan clearly indicating the location, type and height of the proposed tower, specifications on all proposed antennas, on-site land uses and zoning adjacent land uses and zoning (including when adjacent to other municipalities), Land Use Plan classification of the site and all properties within the applicable separation distances set forth in [sub]section D [200.1114] 2.(iv)(b), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Administrator to be necessary to assess compliance.
 - (b) Legal description and ownership of the parent tract and leased parcel (if applicable).
 - (c) The setback distance between the proposed tower and the nearest residential unit, platted residentially

zoned properties, and unplatted residentially zoned properties.

- (d) An inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Township or within one mile of the border thereof, including specific information about the separation distance, location, height and design of each tower. The applicant shall also identify other existing towers within said area and the owner/operator of the existing towers, if known.
 - (e) A landscape plan showing specific landscape materials.
 - (f) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
 - (g) A description of compliance with all applicable federal, state or local laws.
 - (h) A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.
 - (i) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Township.
 - (j) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
 - (k) A description of the desirable characteristics justifying the suitability of the proposed location.
 - (l) A description of the feasible location(s) of future towers or antennas within the Township based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
 - (m) Point of view renderings of how the proposed tower will appear from the surrounding area.
 - (n) Written approval of FAA, Michigan Aeronautics Commission and the Kalamazoo County Airport Zoning Board is required before consideration of the application.
- (ii) *Factors Considered in Granting Special Exception Use Permits for Towers.* In addition to any standards for consideration of special use permit applications pursuant to the Zoning Ordinance, the Planning Commission shall consider the following factors in determining whether to issue a special exception use permit, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this section [article] are better served thereby:
- (a) Height of the proposed tower provided that the waiver to maximum tower height shall be up to a maximum of 300 feet and shall comply with all other required criteria outlined within items (b) through (h) below:
 - (b) Proximity of the tower to residential structures and residential district boundaries;
 - (c) Nature of uses on adjacent and nearby properties;
 - (d) Surrounding topography;
 - (e) Surrounding tree coverage and foliage;
 - (f) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - (g) Proposed ingress and egress; and
 - (h) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in [sub]section D [200.1114] 2.(iii) of this section [article].
- (iii) *Availability of suitable existing towers, other structures, or alternative technology.* No new tower shall be

permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (a) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 - (b) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - (c) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - (e) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - (f) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - (g) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- (iv) *Setbacks/separation from offsite uses/designated areas.*
- (a) Tower setbacks shall be measured from the center point of the base of the tower to the lot line of the off-site uses and/or designated areas a distance equal to 110 percent of the tower height.
 - (b) Separation distances between towers.
 - (i) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 1.

(ii) Table 1: Existing Towers - Types

| | Lattice | Guyed | Monopole 75 Ft in Height or Greater | Monopole Less Than 75 Ft in Height |
|-------------------------------------|---------|-------|-------------------------------------|------------------------------------|
| Lattice | 5,000 | 5,000 | 1,500 | 750 |
| Guyed | 5,000 | 5,000 | 1,500 | 750 |
| Monopole 75 Ft in Height or Greater | 1,500 | 1,500 | 1,500 | 750 |
| Monopole Less Than 75 Ft in Height | 750 | 750 | 750 | 750 |

- (v) *Collocation and maximum tower height.* The maximum tower height for a single user, is up to 90 feet; for two

users, up to 120 feet; for three users, up to 150 feet, and for 4 or more users up to 190 feet. Any tower intended to have multiple users shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for the other users. Applicants proposing multiple user towers shall furnish a written agreement providing that the applicant shall not prevent or deny space on the tower for other users, and shall make the tower available to share at a fair market rate as determined by customary industry standards.

Approval of the site plan shall provide for additional collocation or antenna replacement through an amendment to the site plan, which may be approved administratively by the Zoning Administrator, provided such location is supported by the above allowances for tower height.

- (vi) *Security fencing.* Towers and guyed wires shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Planning Commission may reduce or waive such requirements, if the goals of this section [article] would be better served.
- (vii) *Landscaping.* A six-foot tall landscaped screen is required to effectively screen the tower compound from adjacent residential property, streets and public property. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived by the Planning Commission if the goal[s] of this section [article] would be better served.
- (viii) *Lighting.* The tower shall not be illuminated by artificial means and shall not display strobe lights unless specifically required by the Federal Aviation Administration or other federal or state authority for the tower. If such lighting is required, it shall be oriented inward so as not to project onto surrounding residential property and the design chosen must cause the least disturbance to surrounding properties.
- (ix) *Signs.* The use of any portion of a tower for signs other than warning or equipment information is prohibited.
- (x) *Abandonment of unused towers or portions of towers.* Abandoned or unused towers or portions of towers, foundations, anchors and associated facilities shall be removed within 12 months of the cessation of the operations at the site unless a time extension is approved by the Planning Commission. A copy of the relevant documents (including the signed lease, deed or land contract restrictions) which require the applicant to remove the tower and associated facilities upon cessation of the operations shall be submitted at the time of application for site plan review. In the event that a tower is not removed within 12 months of the cessation of operations at the site, the tower and associated facilities may be removed by the Township and the costs of removal assessed against the real property.

(Ord. No. 118, 5-8-00; Ord. No. 133, 6-1-04; Ord. No. 143, §§ 15, 16, 11-12-07; Ord. No. 147, § 4, 7-22-10)

200.1115 - Permitted uses.

[Sec.] E. The following use is specifically permitted and shall not require a special use permit:

- (1) Antennas or towers located on property owned, leased, or otherwise controlled by the Township of Pavilion provided a license or lease authorizing such antenna or tower has been approved by the Township.

(Ord. No. 118, 5-8-00)

200.1116 - General requirements.

[Sec.] F.

- (1) *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses.

- (2) *Lot size.* For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- (3) *Aesthetics.* Towers and antennas shall meet the following requirements:
- (a) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 - (b) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 - (c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (4) *Accessory buildings.* All buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- (5) *Site plan.* No tower, antenna or accessory building shall be constructed or installed except in conformance with an approved site plan.
- (6) *Antenna installation.* An antenna may be installed on a structure other than a tower in any non-residential zone provided the antenna does not exceed 50 feet as measured from finished grade level to the highest point. An antenna may be installed on a tower in conformance with such tower's special exception use permit and approved site plan.

(Ord. No. 118, 5-8-00)

APPENDIX A

200.1200 - PLATS ESTABLISHED PRIOR TO 2-12-90

200.1201 - Plats established prior to 2-12-90.

Sec. 12.1. Building on land platted before February 12, 1990.

1. Road setback—No building or any part of a building thereon shall be nearer than 40 feet to any street or highway right-of-way line or 73 feet to the center of the right-of-way, whichever is greater; provided that when 25 percent or more of all the frontage on one side of the street between two intersecting streets have been built up with permanent buildings, the average of the setbacks of the nearest adjacent existing dwelling on each side of a lot or parcel shall be the minimum setback line for that parcel, except that such minimum setback line shall not be less than 35 feet from the center of the right-of-way, whichever is greater.
2. No part of any dwelling or out-building shall be nearer than 15 feet to the street sideline of corner premises.
3. Sideline setback. No building or part of a building shall be nearer than either (a) or (b) to the interior sideline.

- (a) Ten feet to either interior sideline.
 - (b) One-tenth of the lot width measured at the point of construction, except a detached garage or other out-building shall not be nearer than five feet to either interior sideline. All new construction need comply only with either (a) or (b).
4. New construction hereafter may, on any lot or parcel where there is an existing structure, increase by 50 percent the square footage of the existing structure which does not comply with the above sideline and frontage setback requirements; provided however, that new construction is no nearer to the sideline or the street than the existing structure.

(Amended by: Ord. No. 93, 8-13-90)

ARTICLE XIII

200.1300 - PLANNED UNIT DEVELOPMENT

Footnotes:

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Editor's note— Ord. No. 132, adopted Aug. 11, 2003, redesignated Appendix B of the Zoning Ordinance as Article XIII.

200.1301 - Planned unit development (PUD).

Sec. 13.1. Planned unit development (PUD) shall be recognized as a special exception use. The disposition of such developments shall be the responsibility of the Planning Commission.

(Ord. No. 123, 11-12-01)

200.1302 - Purpose.

Sec. 13.2. The purpose of these regulations is to permit greater flexibility and, consequently, more creative and imaginative design in the development of areas than is generally possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of development options, the integration of necessary commercial and community facilities and the preservation of open space for park and recreational use. A permit may be issued for construction and occupancy of a planned unit development subject to compliance with the requirements, standards and procedures set forth in this Ordinance.

(Ord. No. 123, 11-12-01)

200.1303 - General requirements for planned unit developments.

Sec. 13.3. Any application for a special exception permit must meet the following conditions to qualify for consideration as a planned unit development:

- A. *Minimum area:* The minimum area required to qualify for a planned unit development special exception permit shall not be less than 20 contiguous acres of land. Commercial uses are not permitted in developments of less than 40 acres.
- B. *Ownership:* The tract of land for a project must be either in one ownership or the subject of an application filed jointly by the owners of all properties included (the holder of a written option to purchase land or the holder of

an executory land contract shall, for purposes of such application, be deemed to be an owner of such land).

- C. *Location:* Planned unit developments shall be allowed only in the A-2, R-1, R-2, R-3, R-4, and R-5 residential districts and within the commercial and industrial districts providing the applicant can demonstrate that the proposed character of development will meet the objectives of planned unit developments and the purpose within that district.
- D. *Utilities:* Public water and sanitary sewer and adequate storm drainage facilities shall be provided as part of the site development. Mi new electric and telephone transmission wires shall be placed underground.
- E. *Approval:* Approval by the Planning Commission of a sketch plan and detailed site plan of all planned unit developments is required.

(Ord. No. 123, 11-12-01; Ord. No. 132, 8-11-03)

200.1304 - Permitted uses.

Sec. 13.4. The uses permitted within the underlying zoning district shall serve as the primary use within the PUD. Special exception uses listed in the underlying district and permitted uses in the next lower district may also be requested for approval within the PUD. Where such uses are approved they shall not exceed twenty percent (20%) of the units or land area and be located in such a manner so as to retain compatibility with adjoining land use and zoning.

(Ord. No. 123, 11-12-01)

200.1305 - Design requirements.

Sec. 13.5. Within any planned unit development approved under this section, the requirements set forth below shall apply in lieu of regulations set forth in the district in which the development is located:

- A. *Number of dwelling units permitted.* The maximum number of dwelling units permitted within the project shall be determined by dividing the net residential development area by the minimum residential lot area required by the districts in which the project is located. In the event the project lies in more than one zoning district, the number of dwelling units shall be computed for each district separately. The lot area per dwelling unit shall not be less than 5,000 square feet. For site condominium projects, the "site" area shall be the equivalent of the "lot" area required.

For commercial and industrial projects, the layout and design shall be consistent with the site development regulations approved for such uses in those districts.

- B. *Lot area requirements.* The minimum lot area for single family dwellings shall not be reduced more than 25 percent below that required by the Zoning Ordinance.
- C. *Setback and yards:*
 1. Front yards - The minimum setback from a street line for a building or structure may be reduced 15 feet for any other street below that required in the district regulation in which the planned unit development is located.
 2. Rear yards - The minimum rear yard requirements may be reduced to 25 feet.
 3. Side yards - The minimum side yard requirements may be reduced to 5 feet.
- D. *Minimum lot frontage and width.* The minimum lot frontage and width for any lot designated for single family dwelling may be reduced 25 percent below the requirements of the district in which the planned unit development is located.

- E. *Screening.* A screening area shall be provided along the perimeter of property on which multiple-family dwelling and commercial buildings are erected.
- F. *Amount of open space required.* Within every planned unit development there shall be planned and set aside permanently as part of the total development an amount of open space equal to not less than the aggregate accumulation of lot size reduction below the minimum lot area for the development as a whole. Before accepting the open space as meeting the requirements of this provision, the Planning Commission must find the land thus designated to be: (1) sufficient in size, suitably located, with adequate access, and (2) that evidence is given that satisfactory arrangements will be made for the maintenance of such designated land to relieve the municipality of the future maintenance.
- G. *Arrangement of open space.* All required open space within a planned unit development shall be arranged so as to provide access and benefit to the maximum number of lots and/or dwelling units. Open space shall be contiguous to the development area within the PUD.

(Ord. No. 123, 11-12-01; Ord. No. 133, 6-1-04)

200.1306 - Application procedure and approval process.

Sec. 13.6.

- A. *General.* Whenever any planned unit development is proposed, before any building permit is granted, the developer shall apply for and secure approval of the special exception use in accordance with the following procedures and obtain approval of a detailed site plan from the Planning Commission.
- B. *Application for sketch plan approval:*
 - 1. In order to allow the Planning Commission and the developer to reach an understanding of basic design requirements prior to detailed site design investment, the developer shall submit a sketch plan of his proposal to the Planning Commission. The sketch plan shall be drawn to approximate scale and clearly show the following information:
 - a. Boundaries of the property.
 - b. Location and height of all buildings.
 - c. Interior roadway system, parking facilities and all existing rights-of-way and easements, whether public or private.
 - d. Delineation of the various residential or commercial areas indicating for each such area its size and composition in terms of total number of dwelling units, approximate percentage allocation by dwelling unit type, plus a calculation of the net residential density.
 - e. The interior open space system.
 - f. The overall storm water drainage system.
 - g. If grades exceed 30 percent, or portions of the site have a moderate to high susceptibility to flooding and/or ponding, an overlay outlining the above susceptible soil shall be provided.
 - h. Principal ties to the neighborhood and community with respect to transportation, water supply and sewage disposal.
 - i. General description of the provision of other community facilities, such as schools, recreational facilities, fire protection services, and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.
 - j. A location map showing uses and ownership of abutting lands.

2. In addition, the following documentation shall accompany the sketch plan.
 - a. Evidence that the proposal is compatible with the objectives of the Pavilion Township Land Use Plan.
 - b. General statement as to how common open space is to be owned and maintained.
 - c. The sketch plan shall show the intended total project. If the development is to be constructed in phases, a general indication of how the sequence of phases is to proceed shall be identified.
3. The Planning Commission shall hold a public hearing or hearings on the application for planned unit development in accordance with the provision of 2006 PA 110 The Michigan Zoning Enabling Act.
4. Following the public hearing, the Planning Commission shall, within 60 days, approve or disapprove the sketch plan and so notify the applicant of its decision.
5. Approval of sketch plan shall not constitute approval of the detailed site plan, rather it shall be deemed an expression of approval of the layout as a guide to the preparation of the detailed plan.
6. Request for changes in sketch plan. If it becomes apparent that major elements of the sketch plan, as it has been approved by the Planning Commission, become unfeasible and in need of modification, the applicant shall then resubmit his entire sketch plan as amended, to the Planning Commission pursuant to the above procedures.

C. *Application for detailed site plan approval.*

1. After receiving approval from the Planning Commission on a sketch plan, the applicant may prepare his detailed site plan and submit it to the Planning Commission for approval. However, if more than six months has elapsed between the time of sketch plan approval, the Planning Commission may require a resubmission of the sketch plan for further review and possible revision.
2. The detailed site plan shall conform to the sketch plan that has received approval. It should incorporate any revisions or other features that may have been recommended by the Planning Commission at the preliminary review. All such compliance shall be clearly indicated by the applicant on the appropriate submission.
3. The detailed site plan shall include the following information:
 - a. An area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, subdivisions, streets, utilities, and easements within 300 feet of applicant's property.
 - b. A topographic map showing contour intervals of not more than four feet of elevation shall be provided.
 - c. A site plan showing location, proposed use, and height of all buildings, location of all parking areas, with access and egress drives thereto; location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences, description of method of water supply and sewage disposal and location of such facilities; location and size of all signs; location and proposed development of screened areas; location and design of lighting facilities; and the amount of building area proposed for non-residential uses, if any.
 - d. A tracing overlay showing all soil types and their location, and those areas, if any, with moderate to high susceptibility to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation.
4. Required standards for approval. The Planning Commission's review of the detailed site plan shall include the following:
 - a. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road

widths, channelization, traffic controls, and pedestrian movement. Roads shall be constructed to KCRC standards.

- b. Location, arrangement, appearance, and sufficiency of off-street parking.
 - c. Location, arrangement, size and entrances of buildings, walkways and lighting.
 - d. Relationship of the various uses to one another.
 - e. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or a noise deterring screen between adjacent uses and adjoining lands.
 - f. In the case of multiple dwellings, the adequacy or usable open space for playgrounds and recreation.
 - g. Adequacy of water supply, storm water and sanitary waste disposal facilities.
 - h. Adequacy of structures, roadways, and landscaping in areas with moderate to high susceptibility to flooding, ponding and/or erosion.
 - i. Compliance with all regulations of the Pavilion Township Zoning Ordinance.
- D. *Action on the detailed site plan.* The Planning Commission shall render its approval or disapproval and so notify the applicant and the Building Inspector.
- E. *Revocation.* In any case where construction on the planned unit development has not commenced within one year from the date of approval, then the special exception use permit shall be null and void.
- F. *Security deposit:*
1. To insure compliance with a Zoning Ordinance and any conditions imposed at the time of issuance of the site plan review approval, the Planning Commission may require that a cash deposit, certified check, bank letter of credit or surety bond acceptable to the Planning Commission covering estimated costs of improvements associated with a project for which the site plan approval is sought be deposited with the clerk of the Township to insure faithful completion of the improvements.
 2. The Planning Commission shall by resolution request the Township Clerk to rebate said cash deposit in reasonable proportion to a ratio of work progress. The amount of rebate shall be determined from time to time at regular or special meetings of the Planning Commission based upon evidence presented by the applicant and/or appropriate Township officials demonstrating the ratio of work completed on the required improvements.
 3. If any improvements are not constructed within the time limit established or part of the site plan approval or within any extension thereof, then the Planning Commission shall by resolution request the Township Board to take appropriate legal steps to insure completion using so much of the security deposit as is necessary for such purpose.
 4. As used herein, "improvements" means those features and actions associated with a project which are considered necessary by the Planning Commission to protect natural resources, or the health, safety, and welfare of the residents of a Township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements may not include the entire project which is the subject of zoning approval.

(Ord. No. 93, 8-13-90; Ord. No. 123, 11-12-01; Ord. No. 139, § 9, 9-8-06)

ARTICLE XIV

200.1400 - ADULT ENTERTAINMENT

200.1401. - Adult entertainment.

Sec. 14.1.

- A. *Purpose:* Regulation of adult entertainment uses is directed at protection of the health, safety and welfare of Township residents through the establishment of conditions by which such use may be approved. The intent is to minimize the negative impacts of such use, including potential blight and objectionable activity associated with such adult uses. It is not the intent of this ordinance to regulate the content of materials associated with the use, but rather the operational nature that requires separation from incompatible uses that may result in loss of property value. Where such uses are subject to regulations of the State of Michigan, those specific regulations shall be imposed without compromising the intent and purpose of this local ordinance.
- B. *District:* Adult entertainment uses are special exception uses within the I-2 Industrial District. Such use is deemed to be incompatible with uses permitted within the agricultural, residential and commercial districts and the site development regulations provide for increased setback and lot area to further reduce such incompatibility.
- C. *Definitions:* Such uses defined are not intended to be an exclusive list of adult entertainment. Any such use required to be licensed or inspected shall be included within this definition of adult entertainment even if not specifically listed under this subsection:

Adult booth, arcade, motion picture or mini-motion picture theater or similar use that presents material which displays images depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas" as defined. Such uses shall be within an enclosed building or enclosed room within the building and shall not be viewed or displayed immediately upon entering said building or room.

Adult book store, adult novelty store or adult video store or similar use which offers for rent or sale material which displays images depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas" as defined. Such stores that limit the concentration of such material to an "adult only" section, encompassing less than 25 percent of the usable floor area and less than 25 percent of the gross receipts from sales or rentals, shall not be considered under this definition or regulated as "adult entertainment".

Adult cabaret, nightclub, theater or similar establishment which features live performances by dancers (topless, go-go or exotic as examples), strippers or similar entertainers, where the performers feature live display of "Specified Anatomical Areas" or describe "Specified Sexual Activities". Such live performances shall be conducted on a stage or platform that is no less than 18 inches above the immediate floor level and is removed not less than three feet from the nearest patron at all times during a performance.

Adult motel or adult lodging establishment or similar use that provides materials for sale or rent, including in-room videos, which displays images depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas". Such facilities shall clearly advertise the availability of such adult entertainment.

Adult personal service or physical culture business or similar uses including massage parlors, health spas, saunas or steam baths where the person providing the service is nude or partially nude as defined as having attire which reveals "Specified Anatomical Areas".

Specified Anatomical Areas are areas of the body, less than completely or opaquely covered, including human genitals, the pubic region, buttock or female breast area below a point immediately above the top of the areola. This definition shall also include human male genitals in a discernibly turgid state even if completely and

opaquely covered.

Specified Sexual Activities include human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse, sodomy or fondling or other erotic touching of human genitals, the pubic region, buttock or female breast.

- D. *Conditions:* In order to reduce or mitigate the incompatibility of such uses with surrounding uses, the following conditions shall apply for adult entertainment:
1. All such facilities shall meet any State licensing requirements, fire regulations or other state or local requirements for operation.
 2. All such facilities shall provide for separate male and female restrooms and such restrooms shall be free to the public.
 3. The entrance to such facilities shall be clearly posted "For Adults Only" and anyone entering the facility shall be asked for permanent identification to determine that no person under the age of 18 is allowed.
 4. The application shall include the following information:
 - a. The legal name of the applicant and if the applicant is a partnership, firm or corporation, the same information shall be furnished for each partner, officer and stockholder having at least a 15 percent interest in the business.
 - b. The address and telephone number of the applicant and any previous address if less than three years at that address.
 - c. The birth date of the applicant or the date of incorporation or partnership agreement if other than an individual.
 - d. Current and any prior employment of the applicant for the proceeding three years, and, if a corporation, firm or partnership, the location of any other adult entertainment businesses under ownership or management.
 - e. A statement of any convictions on civil or criminal charges, including ordinance violations but not including traffic violations, for the applicant and each partner or stockholder (having at least a 15 percent interest in the business).
 5. Signage shall adhere to the Township sign regulations and no advertisement shall be visible from the exterior of the facility related to the display or description of materials defined as "Specified Sexual Activities" or "Specified Anatomical Areas" or any language considered slang providing for the same description.
 6. A site plan shall be submitted which meets the Township's standards for site plan review, including landscaping and lighting that will decrease the incompatibility with surrounding uses. The site plan shall also indicate any existing uses, buildings or structures within 500 feet of the property.
 7. The site for such adult entertainment use shall not be located within 500 feet of any community facilities, including churches, schools or other public buildings.
 8. The site for such adult entertainment use shall not be located within 500 feet of any residence or from a residential zoning district.
 9. The site for such adult entertainment use shall not be located within 1,000 feet of any other adult entertainment use as defined in this ordinance and no alcohol shall be served unless specifically waived by the Planning Commission based upon the following:
 - a. The proposed use will not be contrary to the public interest or injurious to nearby properties, and will be

- consistent with the spirit, intent and purpose for this ordinance.
- b. The proposed use will not enlarge or encourage the development of a use that will increase blight or the deterioration of the area, or be contrary to any residential neighborhood.
 - c. That in granting of this waiver, the Planning Commission may impose additional conditions or limitations on the use that, based upon their judgment, would be necessary for the protection of the public interest.
10. Parking areas shall be well lit and remain lit for one hour after closing and no loitering or congregation of patrons outside of the facility shall be allowed by the proprietor of the business. There shall be provided one parking space per person for the maximum occupancy established for the business by the building and fire codes.
- E. *Exempt uses:* Any use that is licensed or certified for purposes of other professional service, including barbers or beauticians, massage or physical therapists, athletic trainers or other professions where bodily contact is anticipated as part of the service, shall be exempt from these provisions so long as the use does not extend to providing services similar to those identified under this section.

(Ord. No. 130, 5-12-03)

ARTICLE XV

200.1500 - WIND ENERGY CONVERSION SYSTEMS

200.1501. - Wind energy conversion systems (WECS).

Sec. 15.01.

- A. *Purpose.* The regulation of wind energy conversion systems, including the height, minimum lot area and required setbacks for such systems, is intended to provide for an alternative source of power generation while protecting the health, safety and welfare of Township residents.
- B. *Definition.* Wind energy conversion systems: A system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related equipment. A "small turbine/on-site" system is intended to primarily serve the needs of the customer, with a single tower that that may, or may not, be connected to the utility grid. A "large turbine/utility grid system" is designed to generate electricity from one or more towers (within an array) and is intended to serve institutions, residential communities or larger cooperatives.
- C. *Special exception use.* Due to the concerns related to health, safety and welfare, such systems shall be regulated as special exception uses within all zoning districts, provided such land area is sufficient to support their development and operation. Such systems may be allowed as a permitted use provided they do not exceed 50 feet in height. The following requirements shall be met and the Planning Commission may impose additional conditions where appropriate:
 - 1) In addition to the requirements of Site Plan Review, Article V, Sec. 5.2 (200.502 et seq.), the site plan of the property shall show the location of overhead electrical transmission or distribution lines, whether utilized or not, and the location of the WECS with its specific dimensions, including the entire area through which the rotor(s) may pass, the location of any guy wires or other support devices, and the location of all dwelling units within 500 feet of the WECS.
 - 2) Each special use permit application shall be accompanied by a complete set (either the original or an

accurately reproduced copy) of the manufacturer's instructions which shall, at a minimum, include the following: A standard foundation and anchor design or specifications for normal soil conditions; Detailed instructions for operation and maintenance of the WECS on site; A copy of all warnings and/or documents provided by the manufacturer of the WECS; Grounding and lightning procedures protection which follow the National Electrical Code, Articles 250 (Grounding) and 280 (Lightning Arresters); and Proof of Insurance. In addition, the Underwriters Label shall be attached to the base of the tower and any subsystem, such as the generator, and the following information shall be included: The name, address, and telephone number of the owner of the tower/subsystem; Manufacturer's name and address; Model number; Serial number; Emergency and normal shutdown procedures; The survival wind speed in miles per hour and meters per second for the tower and the maximum power output for the generator; Name of installer; Name of person responsible for maintenance; Emergency telephone number in force for the installer and the person responsible for maintenance.

- 3) Electromagnetic interference: The entire WECS (including turbines, alternators, generators, and interconnect systems) shall be filtered and/or shielded to prevent the emission of generated radio frequency energy which would cause any interference with radio, and/or television broadcasting or reception, and shall comply with Federal Communication Rules, 47 CFR, parts 15 (including sub parts A and F) and 18 (including sub parts A, D and H).
- 4) Noise: The maximum level of noise permitted to be generated by any WECS shall be 50 decibels, as measured on the DBA scale, measured at the property line nearest the WECS. The Planning Commission may request that a baseline study of the decibel levels existing prior to the installation be included as required documentation for review.

D. *Site development.*

- 1) *Lot area/setbacks:* No "small turbine/on-site" WECS shall be erected on any lot or parcel less than one acre in area and shall be situated on the lot or parcel so that no portion of the tower or turbine is closer to property lines (excluding public utilities) than 150 percent of the height of the tower as defined in [section] B. No "large turbine/utility grid" WECS shall be erected on any parcel less than 20 acres in area and shall be situated on the parcel so that no portion of the tower or turbine is closer to property lines (excluding public utilities) than 150 percent of the height of any towers as defined in [section] B. A pooled parcel application may be considered as one application, with setbacks based upon the distance to a non-pooled parcel.
- 2) *Height:* The maximum allowable height for any "small turbine/on-site" WECS, based upon the combined tower and rotor blade length, shall be 40 feet for parcels of one to less than five acres, 80 feet for parcels of five to less than ten acres and up to 120 feet for parcels of ten acres or more. The maximum allowable height for any "large turbine/utility grid" WECS, based upon the combined tower and rotor blade length, shall be 300 feet. The Planning Commission, in consideration of such request, may waive this height requirement where such proposed location does not negatively impact adjoining properties and where such adjoining property owner has indicated through formal letter that such waiver is acceptable.

Ground Clearance: For both horizontal and vertical axis turbines, and WECS rotor shall be located on the tower or support such that the minimum blade clearance above ground level is 20 feet.

- 3) *Accessibility:* Towers shall be designed and constructed in such a manner that climbing devices are only accessible with a separate ladder to a height of 12 feet.
- 4) *Connection to power grid:* In the case of the WECS to be interconnected with the power grid of the local electric utility, the applicant shall provide proof of written notice to the utility of the proposed

interconnection and the utility's response thereto. The resident shall comply with all requirements of the servicing utility if the WECS is interfaced with the utility grid. The utility will install appropriate electric metering (for sellback or non-sellback) and the customer will be required to install a disconnecting device adjacent to the electric meter(s).

- 5) *Vibration*: Under no circumstances shall a WECS produce vibrations humanly perceptible beyond lot boundaries.
 - 6) *Additional studies*: The applicant may offer and submit, or the Planning Commission may require, that the applicant submit studies related to noise, vibration, or similar issues that may be considered a nuisance. In addition, such studies may include avian and wildlife impact, visual impacts, shadow flicker (changes in light intensity caused by the moving blade) or similar issues based upon compatibility of the proposed use in the requested location.
- E. *Decommission plan/site reclamation*. The applicant shall submit a plan that indicates the anticipated life of the project, the estimated cost and method to ensure the availability of such funds, and the manner in which the site will be reclaimed.

(Ord. No. 144, 12-10-07; Ord. No. 156, 10-10-16)

ARTICLE XVI

200.1600 - PLANNING COMMISSION ORDINANCE

200.1601. - Scope, purpose and intent.

This Ordinance is adopted pursuant to the authority granted the Township Board under the Michigan Planning Enabling Act, 2008 PA 33, MCL 125.3801 et seq., and the Michigan Zoning Enabling Act, 2006 PA 110, MCL 125.3101 et seq., to establish a Planning Commission with the powers, duties and limitations provided by those Acts and subject to the terms and conditions of this Ordinance any future amendments to this Ordinance (MCL 125.3811 and MCL 125.3883).

(Ord. No. 149, 7-11-11)

200.1602. - Establishment.

The Township Board hereby confirms the establishment of the Pavilion Township Planning Commission under the Michigan Planning Enabling Act, 2008 PA 33, MCL 125.3801 et seq., as successor to the Pavilion Township Planning Commission with zoning authority, formerly established under the Michigan Zoning Enabling Act, 2006 PA 110, MCL 125.3101 et seq., and the Township Planning Act, 1959 PA 168, MCL 125.321 et seq. The Pavilion Township Planning Commission shall have 7 members. Members of the Pavilion Township Planning Commission, as of the effective date of this Ordinance, shall, except for an ex officio member whose term on the Planning Commission shall be limited to his or her term on the Township Board, continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for Planning Commission membership set forth within the Michigan Planning Enabling Act, 2008 PA 33, MCL 125.3801 et seq (MCL 125.3811, MCL 125.3815 and MCL 125.3881).

(Ord. No. 149, 7-11-11)

200.1603. - Appointment and terms.

The Township Supervisor, with the approval of the Township Board by a majority vote of the members elected and serving, shall appoint all Planning Commission members, including the ex officio member (MCL 125.3815).

The Planning Commission members, other than an ex officio member, shall serve for terms of 3 years each (MCL 125.3815).

A Planning Commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment (MCL 125.3815).

Planning Commission members shall be qualified electors of the Township, except that one Planning Commission member may be an individual who is not a qualified elector of the Township. The membership of the Planning Commission shall be representative of important segments of the community, such as the economic, governmental, educations, and social development of the Township, in accordance with the major interests as they exist in the Township, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry and commerce. The membership shall also be representative of the entire geography of the Township (MCL 125.3815).

One member of the Township Board shall be appointed to the Planning Commission as an ex officio member (MCL 125.3815).

An ex officio member has full voting rights. An ex officio member's term on the Planning Commission shall expire with his or her term on the Township Board (MCL 125.3803 and MCL 125.3815).

No other elected Officer or employee of the Township is eligible to be a member of the Planning Commission (MCL 125.3815).

Except for the ex officio member, all members shall continue to serve as a member until their successor is appointed and qualified to serve. Subsequently, members shall be appointed to fill vacancies or upon the termination of their term by the Township Supervisor, subject to approval by a majority vote of the members of the Township Board elected and serving.

(Ord. No. 149, 7-11-11)

200.1604. - Removal.

The Township Board may remove a member of the Planning Commission for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing (MCL 125.3815).

(Ord. No. 149, 7-11-11)

200.1605. - Conflict of interest.

Before casting a vote on a matter on which a Planning Commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this Ordinance constitutes malfeasance in office (MCL 125.3815).

For the purposes of this Section, the Planning Commission shall define "conflict of interest" in its By-Laws.

(Ord. No. 149, 7-11-11)

200.1606. - Compensation.

The Planning Commission members may be compensated for their services as provided by Township Board Resolution. The Planning Commission may request from the Township Board compensation and expenses of its members for travel and registration when engaged in the performance of official activities authorized by the Township Board, including, but not limited

to, attendance at conferences, workshops, educational and training programs, meetings and inspections (MCL 125.3823).

(Ord. No. 149, 7-11-11)

200.1607. - Officers and committees.

The Planning Commission shall elect a Chairperson, Vice Chairperson and a Secretary from its members and may create and fill other offices as it considers advisable. An ex officio member of the Planning Commission is not eligible to serve as Chairperson. The term of each office shall be 1 year, with opportunity for re-election as specified in the Planning Commission By-Laws (MCL 125.3817).

The Planning Commission may also appoint advisory committees from its membership or who are not members of the Planning Commission (MCL 125.3817).

(Ord. No. 149, 7-11-11)

200.1608. - By-laws, meetings and records.

The Planning Commission shall adopt By-Laws for the transaction of business (MCL 125.3819).

The Planning Commission shall hold at least 4 regular meetings each year and shall, by Resolution, determine the time and place of the meetings.

Unless otherwise provided in the Planning Commission's By-Laws, a special meeting of the Planning Commission may be called by the Chairperson or by 2 other members upon written request to the Secretary. Unless the By-Laws otherwise provide, the Secretary shall send written notice of a special meeting to Planning Commission members at least 48 hours before the meeting (MCL 125.3821). The foregoing notice is not required where the special meeting is determined and scheduled at a regular meeting of the Commission, except for notice to members absent from the regular meeting.

The business that the Planning Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 et seq. (MCL 125.3821).

The Planning Commission shall keep a public record of its Resolutions, transactions, findings and determinations. A writing prepared, owned, used, in the possession of or retained by the Planning Commission in the performance of its official functions shall be made available to the public in compliance with the Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq. (MCL 125.3819 and MCL 125.3821).

(Ord. No. 149, 7-11-11)

200.1609. - Annual report.

The Planning Commission shall make an annual written report to the Township Board concerning its operations and the status of its planning activities, including recommendations regarding actions by the Township Board related to planning and development (MCL 125.3819).

(Ord. No. 149, 7-11-11)

200.1610. - Authority to make Master Plan.

Under the authority of the Michigan Planning Enabling Act, 2008 PA 33, MCL 125.3801 et seq., and other applicable planning statutes, the Planning Commission shall make a Master Plan as a guide for development within the Township's planning jurisdiction (MCL 125.3807 and MCL 125.3831) and submit its proposed plan to the Township Board for adoption (MCL 125.3843).

Final authority to approve a Master Plan or any amendments thereto shall rest with the Township Board. The existing Master Plan for the Township shall be the Township's Master Plan until amended by Planning Commission recommendation and adoption by the Township Board (MCL 125.3843).

(Ord. No. 149, 7-11-11)

200.1611. - Zoning powers.

The Township Board hereby confirms the transfer of all powers, duties and responsibilities provided for Zoning Boards or Zoning Commissions by the former Township Zoning Act, 1943 PA 184, MCL 125.271 et seq.; the Michigan Zoning Enabling Act, 2006 PA 110, MCL 125.3101 et seq.; or other applicable zoning statutes, to the Pavilion Township Planning Commission with zoning authority, formerly established under the Michigan Zoning Enabling Act, 2006 PA 110, MCL 125.3101 et seq., and the Township Planning Act, 1959 PA 168, MCL 125.321 et seq.

Any existing Zoning Ordinance shall remain in full force and effect until otherwise amended or repealed by the Township Board.

(Ord. No. 149, 7-11-11)

200.1612. - Capital improvements program.

To further the desirable future development of the Township under the Master Plan, the Planning Commission shall annually prepare recommendations to the Township Board of public structures and improvements, in general order of their priority, for the following 6 year period. The Commission shall, at least every 5 years after adoption of the Township Master Plan, review the Plan to determine whether it is advisable to commence procedures to amend the Plan or adopt a new Plan (MCL 125.3845).

(Ord. No. 149, 7-11-11)

200.1613. - Recommendations as to subdivision rules and plats; approval of exempt divisions.

The Planning Commission may recommend to the Township Board provisions of an Ordinance or rules governing the subdivision of land. Before recommending such an Ordinance or rule, the Planning Commission shall hold a public hearing on the proposed Ordinance or rule. The Planning Commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the Township (MCL 125.3871).

The Planning Commission shall review and make recommendations on any proposed plat before action thereon by the Township Board under the Land Division Act, 1967 PA 288, MCL 560.101 et seq. Before making its recommendation, the Planning Commission shall hold a public hearing on the proposed plat. A plat submitted to the Planning Commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than 15 days before the date of the hearing, notice of the date, time and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the Township. Similar notice shall be mailed to

the owners of land immediately adjoining the proposed platted land (MCL 125.3871). The Planning Commission shall have 63 days from receipt of the plat to issue its recommendation of approval, approval with conditions or disapproval; in default of which it shall be considered approval.

Approval or disapproval of a proposed division, other than a plat, shall be made by the Township Assessor in accordance with the Land Division Act, 1967 PA 288, MCL 560.101 et seq.

(Ord. No. 149, 7-11-11)

200.1614. - Repealer.

All other Ordinances or parts thereof in conflict herewith are hereby repealed and shall be of no further force and effect.

(Ord. No. 149, 7-11-11)

200.1615. - Severability.

Any and all sections, terms, provisions and/or clauses herein shall be deemed independent and severable. Should any court of competent jurisdiction hold any section, term, provision or clause void and/or invalid, all remaining sections, terms, provisions and/or clauses not held void and/or invalid shall continue in force and effect.

(Ord. No. 149, 7-11-11)

200.1616. - Effective date.

This Ordinance shall take effect on the date of its publication following its adoption by the Township Board (MCL 42.22). Nunc Pro Tunc to 7/1/2011.

(Ord. No. 149, 7-11-11)

ARTICLE XVII

200.1700 - SPECIFIC STANDARDS FOR AN EVENT BARN

200.1701. - Intent.

A. To allow for re-purposing of existing barns on agricultural properties or formerly agricultural properties, event barns shall be considered a special exception use in the A-1, Rural-Agriculture zoning district.

200.1702. - Standards.

- B.
1. The event barn and all the structures associated with events are subject to the Building and Fire Codes applicable to the intended occupancy.
 2. The access drive shall be at least 20 feet wide, of compact gravel or better surface and on the subject property or, if off-site, in an easement. The driveway is subject to review and approval of the Road Commission of Kalamazoo County.
 3. No overnight lodging is permitted.

4. Handicap parking spaces shall meet the provisions of the Americans with Disabilities Act. Other parking shall be provided on a grass, gravel or better surface.
5. The hours of any event shall not be later than 11:00 p.m. on Friday or Saturday nights and 9:00 p.m. on other days.
6. The special exception use permit shall be reviewed by the Planning Commission annually. The Planning Commission may waive this requirement after three years of annual reviews and finding no significant concerns with the facility or its operation.
7. Information to be provided by the applicant in a conceptual plan and/or as supporting documentation.
 - a. Size of the property and the square footage of the facility as well as a floor plan including a statement indicating the maximum number of attendees per event type.
 - b. Proposed hours of operation including pre and post-event activities on the site.
 - c. Provision for and location of restroom facilities.
 - d. Traffic management plans including access drive location, parking areas and the number of parking spaces.
 - e. Location of exterior lights and the fixture details including proposed hours of use.
 - f. Placement and type of all temporary structures.
 - g. Location of trash receptacles and plans for trash management.
 - h. Proposed exterior signs.
 - i. Sound amplification details.
 - j. Number of employees
 - k. Other items as deemed necessary by the Planning Commission necessary to complete the review.

200.1702. - Effective date.

This Ordinance shall become effective seven (7) days after its publication (or publication of a summary thereof) in a newspaper in general circulation within Pavilion Township.

(Ord. No. 163, § 4, 12-10-18)