

Elba Township Zoning Ordinance #200

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ELBA TOWNSHIP ZONING ORDANCE #200

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**ZONING ORDINANCE
TOWNSHIP OF ELBA
LAPEER COUNTY, MICHIGAN
ORDANCE NO. 200**

AN ORDINANCE to regulate the use of land and buildings by dividing the Township of Elba into districts; imposing regulations; prohibitions and restrictions governing the erection, construction, and reconstruction of structures and buildings; the districts within which lands may be used for trade, industry, residence, and other specified purposes; regulating and limiting the height and bulk of buildings and other structures; regulating lot size, yards, and other open spaces; regulating the density of population; limiting congestion upon the public streets by providing for the off-street parking and loading of vehicles; and providing the means of enforcing said Ordinance and providing a penalty for violation thereof, in accordance with the authority and intent of Act 184, of the Public Acts of 1943, as amended.

THE TOWNSHIP OF ELBA ORDAINS:

**ARTICLE I
SHORT TITLE**

Section 1.01. This ordinance shall be known and cited as the Elba Township Zoning Ordinance.

**ARTICLE II
DEFINITIONS**

Section 2.01. For the purpose of this Ordinance, certain terms are herewith defined. Terms not herein defined shall have the meanings customarily assigned to them.

See Appendix for a list of definitions.

**ARTICLE III
SCOPE**

Section 3.01. SCOPE.

No building or structure, or part thereof shall hereinafter be erected, constructed, placed, altered or moved; and no new use or change in use shall be made of any building, structure or land, or part thereof; and no land shall be divided, except in conformity with the provisions of this ordinance.

**ARTICLE IV
ADMINISTRATION**

Section 4.01. ZONING ADMINISTRATOR.

The provisions of this ordinance shall be administered by a Zoning Administrator, or other designate appointed by the Township Board. The Zoning Administrator shall serve under such terms and at such rate of compensation as the Township Board may determine.

Section 4.02. ZONING COMPLIANCE PERMITS.

A zoning compliance permit shall be acquired from the Township or Zoning Administrator before any construction is undertaken or any structure is moved within the Township and before any change in the use of any land, structure or building is undertaken.

- A. **APPLICATION.** A zoning compliance permit shall be applied for in writing on an application form provided by the Township or Zoning Administrator.
- B. **ISSUANCE.** A zoning compliance permit shall be issued by the Township or Zoning Administrator whenever the proposed use complies with the provisions of this ordinance.
- C. **PRIVATE COVENANTS.** The Township or Zoning Administrator shall not refuse to issue a zoning compliance permit if a violation of a private covenant, agreement or deed restriction exists.
- D. **REVOCAION.** Any zoning compliance permit issued in error or pursuant to an application containing any false statements shall be void.
- E. **FEES.** The amount of any fees charged for zoning compliance permits or inspections shall be established by the Township or the Zoning Administrator.

**ARTICLE V
ZONING DISTRICTS**

Section 5.01. DISTRICTS.

The Township is hereby divided into the following zoning districts:

R-A	Residential Agricultural
R-1	Single Family Residential
R-2	Residential Multiple Family
R-3	Residential Mobile Home Park
R-4	Residential Mobile Home Subdivision
C-1	Neighborhood Commercial

C-2	General Commercial
C-3	Highway Commercial
I	Industrial

Section 5.02. MAP.

The boundaries of the zoning districts are drawn upon the map. The map shall be designated as the Elba Township Zoning Map.

Section 5.03. PRINCIPAL USES PERMITTED.

All uses of land or structures principal uses permitted are permitted throughout the district under which they are listed. Any uses not expressly listed as "principal uses permitted" are prohibited in that district, unless they are listed as "uses permitted after special approval" in the district.

Section 5.04. USES PERMITTED AFTER SPECIAL APPROVAL.

All uses of land or structure listed as "uses permitted after special approval" are permitted within the district under which they are listed, provided that Planning Commission approval has been granted pursuant to the provisions of Article XVIII.

Section 5.05. SITE PLAN REVIEW.

Whenever a building permit is required for the erection or structural alteration of any building (other than single family dwelling(s), two family dwelling(s), farm building(s) or building(s) accessory thereto)" a site plan shall be prepared and submitted to the Planning Commission for review pursuant to the requirements of Article XIX.

Section 5.06. AREA, SETBACK AND HEIGHT.

All uses of land or structures shall comply with the area, setback and height requirements of Article XVIII, for the Zoning District in which they are located, unless different requirements are specified as a condition for a "use permitted after special approval."

**ARTICLE VI
R-A RESIDENTIAL-AGRICULTURE DISTRICT**

Section 6.01. PRINCIPAL USES PERMITTED.

- A. Agriculture
- B. Single family dwellings.
- C. Township, County or State parks and conservation areas.

- D. Livestock maximum number must comply with the requirements of Article XV, Section 15.23.
- E. Farm roadside stands, provided that the roadside stand is located on the farm on which the produce is raised and provided the stand and parking area is located at least twenty-five (25) feet behind the road right-of-way line.
- F. Buildings, structures and uses, which are accessory to any of the above, permitted uses.
- G. Poultry and rabbits maximum number must comply with the requirements of Article XV, Section 15.23.
- H. Township owned buildings, parks and recreational facilities.

Section 6.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Schools, Churches and Cemeteries.
- B. Golf Courses.
- C. Private Parks and Private Recreation Areas.
 - 1. Site requirements.
 - (a) Minimum site size of forty (40) acres.
 - (b) Direct access to a public and/or private road.
 - 2. Yard and Placement Requirements.
 - (a) All development features shall be located so as to minimize the possibility of any adverse effect upon adjacent property. This shall include a minimum setback of two hundred (200) feet from property lines and roads, provided that where topography conditions are such that the structure would be screened from view, the setback may be modified.
 - (b) No recreational or commercial activity shall take place within thirty (30) feet of the perimeter of the recreation area. All activities shall be adequately screened from abutting property.
 - (c) Related accessory commercial uses may be permitted in conjunction with the recreation use when it is clearly incidental to the main recreational character of the property.
 - 3. Other Requirements.
 - (a) When a swimming pool is to be provided, said pool shall be provided with a protective fence at least four (4) feet in height, made of non-metallic construction and entry shall be by means of a controlled gate.
 - (b) Travel trailer parks shall also be subject to the following:

- i. The number of trailer or camp sites shall be not more than fifteen (15) per gross acre. The minimum area of any space for a travel trailer shall not be less than one thousand two hundred (1200) square feet with no dimension less than thirty (30) feet.
 - ii. Parking of a tent, camper, travel trailer or recreation vehicle shall be limited to not more than one hundred and eighty (180) days.
 - iii. The travel trailer park shall have a central water supply system with potable water under pressure piped to within five hundred (500) feet of each camping site.
 - iv. An enclosed toilet and sewage facility approved by the Health Department with hot and cold running water available therein shall be provided.
 - v. No recreational vehicle, tent or travel trailer shall be allowed within the park except upon an approved camper site.
 - vi. A minimum of twenty-five (25%) percent of the total area shall be reserved for recreation purposes or open space.
 - vii. Electric utilities shall be made available for each camping site.
- (c) Public and private shooting ranges and gun clubs shall also be subject to the following:
- i. Every shooting range shall be constructed and maintained in accordance with nationally recognized safe practice standards set forth by the National Rifle Association. Each range shall be of sufficient size and appropriate design to permit the discharge of firearms without endangering the safety of persons within the velocity area of the various firearms utilized.
 - ii. Every shooting range shall be posted with signs that indicate the area as a shooting range. Adequate backstops, bench rests, baffles and necessary safety features shall be provided. There shall be a greenbelt or open area not used for shooting along the perimeter of the shooting range. Such greenbelt or open space shall be a minimum of two hundred (200) feet in width.
 - iii. The Planning Commission shall consider safety and noise factors and methods of minimizing related problems. There shall be no shooting between the hours of 8 p.m. and 8 a.m.
 - iv. The application shall be accompanied by plans for Site Plan Review as per Article XIX.
 - v. Trap and skeet shooting shall be established under the rules and regulations of the Michigan Trap and Skeet Association, subject to Engineering Review.

D. Raising fur-bearing animals.

- 1. All animals shall be adequately housed, fenced and maintained so as not to create a nuisance.
- 2. All gates on fences where the animals are enclosed must have a self-closing latch to which a lock may be fastened.

3. All pens and runways shall be screened from view from all directions either by the building or greenbelt plantings, and shall have restrictive fencing at least six (6) feet in height.
 4. Housing of animals and runs, shall be set back a minimum of fifty (50) feet from each property line and one hundred (100) feet from each existing residential structure on abutting parcels.
 5. Maximum number must comply with the requirements of Article XV, Section 15.23.
 6. Approvals shall be limited to one-year periods, subject to renewal(s).
- E. Nursery schools and day-care centers, consisting of seven (7) or more children total enrollment.**
1. The site shall contain a minimum of one hundred fifty (150) square feet of outdoor play area for each child and shall not be less than five thousand (5,000) square feet in total.
 2. The play area shall be screened from adjacent residential uses or residentially zoned properties.
 3. The above requirements may be modified for non-profit cooperative nurseries if the Planning Commission finds that the amount of time that the children are on the premises does not warrant the requirements.
 4. Total enrollment shall be no more than fifty (50) children.
- F. Quarrying of soil, sand, clay, gravel, or similar materials.**
1. Each application for special approval shall contain the following:
 - (a) Site Plan in compliance with Article XIX.
 - (b) Detailed statement as to method of operation, type of machinery or equipment to be used and estimated period of time that the operation will continue.
 - (c) Detailed statement as to the type of deposit proposed for extraction.
 - (d) Topographical survey map.
 - (e) Reclamation plan and detailed statement showing the proposed use of the land after quarrying or fill operation are complete.
 - (f) Environmental study.
 - (g) Operations involving the quarrying of soil, sand, clay, gravel, or similar materials shall be reviewed annually by the Planning Commission.
 - (h) Detail of the proposed haul routes and daily truck trips.
 - (i) Such other information as may be reasonably requested by the Planning Commission.

2. Permit fees shall be set by the Township Board and shall accompany the application. Said fees shall be used to defray the cost of legal fees, engineering services, investigation, publication charges, and other miscellaneous administrative expenses necessary to process the application.
3. Operational Requirements.
 - (a) Pit Operations.
 - i. Where an excavation exceeds five (5) feet in depth, a fence shall be erected completely surrounding the excavation. The fence shall have gates, which shall be kept locked when operations are not being carried on.
 - ii. Any gravel or dirt roads used for the purpose of ingress and egress to said excavation site shall be kept dust free by hard topping or approved chemical treatment.
 - iii. The completed slopes of the banks of the excavation shall in no event exceed a minimum of three (3) feet to one (1) foot (three foot horizontal to one foot vertical) and the slopes and banks shall be recovered with a minimum of six (6) inches of topsoil.
 - iv. No cut or excavation shall be made closer than two hundred (200) feet from the centerline of the nearest road right-of-way line or nearer than fifty (50) feet to the nearest property line. The Planning Commission may prescribe more strict requirements in order to give sublateral support to surrounding property where soil or geologic conditions warrant it.
 - (b) Stripping Operations.
 - i. No soil, sand, gravel, clay or similar materials shall be removed in such manner to result in a place of danger or menace to the public health. The premises shall be graded so that surface water drainage is not interfered with.
 - ii. Sufficient topsoil shall be stock-piled on said site so that the entire site, when stripping operations are completed, may be recovered with a minimum of six (6) inches of topsoil. The replacement of such topsoil shall be made immediately following the termination of the stripping operations. If such stripping operations continue over a period of time greater than one (1) year, the operator shall replace the stored topsoil over the stripped areas as he progresses.
4. Surety Bond.
 - (a) The Planning Commission shall, to insure strict compliance with any regulations contained herein or required as a condition of the issuance of a permit either for quarrying, topsoil stripping, land filling, require the permittee to furnish a surety bond in an amount determined by the Planning Commission to be reasonably necessary to insure compliance.
 - (b) In fixing the amount of such surety bond, the Planning Commission shall take into account the size and scope of the proposed operation, probable cost of

rehabilitating the premises upon default of the operator, estimated expenses to compel the operator to comply by Court Decree, and such other factors and conditions as might be relevant.

(c) Annual permit required, expiring June 30th.

- G. Home Occupations. All home occupations shall comply with Section 15.17.
- H. State licensed residential facilities caring for two (2) or more to a maximum of twelve (12) residents.
 - 1. Must be able to comply with state regulations for such facilities.
 - 2. Must have adequate area for outdoor exercise or recreation.
 - 3. Must be located so as to minimize danger to residents caused by heavily traveled roads.
 - 4. Must be located so as to be reasonably near adequate public and commercial facilities.
- I. Kennels.
 - 1. All animals shall be adequately housed, fenced and maintained so as not to create a nuisance.
 - 2. All gates on fences where the animals are enclosed must have a self-closing latch to which a lock may be fastened.
 - 3. A maximum count of six (6) adult dogs are allowed per five (5) acres of land and one (1) animal for each additional acre, thereafter.
- J. Airports/airstrips shall comply with Elba Township Ordinance 15.22 and any other applicable federal or state requirement.

**ARTICLE VII
R-1 SINGLE FAMILY RESIDENTIAL DISTRICT**

Section 7.01. PRINCIPAL USES PERMITTED.

- A. Single family dwellings.
- B. Publicly owned buildings, parks and recreational facilities.
- C. Agriculture.
- D. Buildings, structures and uses, which are accessory to any of the above, permitted uses.

Section 7.02. USES PERMITTED AFTER SPECIAL APPROVAL.

A. Churches and Cemeteries.

B. Public or Parochial Schools and Related Educational Facilities.

C. Golf Courses.

D. Two Family Dwellings.

1. The lot on which the two family dwelling is located must contain one and one-half (1-1/2) times the area and road frontage required for single-family dwellings.
2. Two family dwellings constructed after the effective date of this Ordinance must have garage space available for at least one vehicle per dwelling unit.

E. Nursery Schools and Day Care Centers, in excess of seven (7) children total enrollment.

1. The site shall contain a minimum of one hundred fifty (150) square feet of outdoor play area for each child and shall not be less than five thousand (5,000) square feet in total.
2. The play area shall be screened from adjacent residential uses or residentially zoned properties.
3. The above requirements may be modified for non-profit cooperative nurseries if the Planning commission finds that the amount of time that the children are on the premises does not warrant the requirements.
4. Nursery schools and day care centers may not be located on interior streets of platted subdivisions.
5. Facilities shall have adequate severe weather protection.
6. Total enrollment shall not exceed fifty (50) children.

F. Private Clubs or Lodges.

1. The club or lodge must be a local chapter or branch of a recognized non-profit community service organization.
2. The club or lodge must not permit the consumption of alcoholic beverages on the premises.
3. The club or lodge shall not be located on interior streets of platted subdivisions.

4. No interior subdivision street shall be used for traffic entrances or exits to the private club or lodge.
5. Greenbelting required. Such uses shall be screened from surrounding properties to prevent negative impact.

G. Keeping of Poultry, and Rabbits.

1. Maximum number must comply with the requirements of Article XV, Section 15.23.
2. All pens and runways shall be screened from view from all directions either by the building or greenbelt plantings, and shall have restrictive fencing at least six (6) feet in height.
3. Raising of animals and runs, shall be set back a minimum of fifty (50) feet from each property line and one hundred (100) feet from each residential structure on abutting parcels.
4. Ownership of fur-bearing animals is for personal use only.
 - A. A maximum count of two (2) fur-bearing animals are allowed per five (5) acres of land and one (1) animal for each additional acre, thereafter.
 - B. Approvals shall be limited to one-year periods, subject to renewal(s).

H. State Licensed Residential Facilities Caring for Seven or more Residents.

1. Must comply with State of Michigan Family Independence Agency requirements.
2. Must have adequate area for outdoor exercise or recreation.
3. Must be located so as to minimize danger to residents caused by heavily traveled roads.
4. Must be located so as to be reasonably near adequate public and commercial facilities.
5. Shall not be located within platted subdivisions.
6. Facilities shall have adequate severe weather protection.
7. Shall have reasonable storage space for each resident's personal belongings.
8. Living, dining, bathroom, and sleeping areas used by residents who have impaired mobility shall be accessible and located on the street floor level of the facility that contains the required means of egress.

9. At least two hundred (200) square feet shall be provided for living and bedroom space per resident.
 10. Greenbelting required. Determined by Planning Commission during site plan review process.
- I. Home Occupations. All home occupations shall comply with Elba Township Article XV Section 15.17.
- J. Private Riparian Recreation Areas. Private, non-commercial recreation areas or uses for subdivision, neighborhood or private membership, including such facilities as institutional or community type swimming pools, recreation centers, swimming areas, beach facilities, picnic and park areas, boat launch, and water access sites, may be permitted subject to the following regulations:
1. The size and location of the proposed site shall be directly related to the neighborhood area or subdivision to be served. Membership and use of such a recreation facility shall be limited to the area and the number of families in the Special Approval application. The size of the proposed recreation park shall be directly related to the number of families which can reasonably be served by that land area without overcrowding the parcel of land or the facility or infringing upon the rights of others in the neighborhood or area. As guidelines for waterfront recreation uses, the minimum site shall include ten (10) feet of water frontage for each lot served and a minimum of ten (10%) percent of the total of all the lot areas to be serviced. These guidelines may be modified by the Planning Commission where it is shown that the project will be of benefit to the Township.
 2. Front, side and rear yard setbacks of building shall be at least eighty (80) feet from any property line or natural water's edge and shall be landscaped in trees, shrubs and grass. All such landscaping and planting shall be maintained in a healthy growing condition, neat and orderly in appearance.
 3. Off-street parking shall be provided only for the handicapped or for those picking up or delivering persons to the site. If the use includes a building, additional parking may be required by the Planning Commission.
 4. Whenever an outdoor pool is involved, said pool area shall be provided with a protective fence at least six (6) feet in height and an entry shall be provided by means of a controlled gate or turnstile.
 5. Where storm sewers are nonexistent or capacity is not ample, adequate storm water retention area shall be provided by the landowner.

6. In the event the landowner is requesting approval of the recreation facility in a proposed subdivision, he shall receive Special Approval under this section prior to final preliminary plat approval.
7. Whenever a boat dock or launch site is provided, such facility shall be limited in size to the neighborhood or subdivision families served. Facilities shall be designed such that the launch or dock facilities do not impair the rights of adjacent landowners. Open dockage only shall be permitted. The design and use of boat facilities shall be limited to four (4) boats per one hundred (100) feet of frontage on the mooring site. Dock or boat launch sites shall comply with all federal and state requirements, as well as applicable local ordinances.
8. Prior to the approval, the proprietor shall submit an environmental report on the impact of the use upon surrounding properties and the adjacent water body. The Planning Commission, after review of the report, shall determine that the proposed use does not cause substantial harm to adjacent land or water areas and does not create an overcrowding or potential pollution of the water area.
9. Each environmental report must contain the following:
 - (a) A description of the probable impact of the action on the environment, including any associated impacts on human life.
 - (b) A description of the probable adverse effects of the action, which cannot be avoided (such as air or water pollution, threats to human health or other adverse effects on human life).
 - (c) Evaluation of alternatives to the proposed action that might avoid some or all of the adverse effects, including an explanation why the proprietor determined to pursue the action in its contemplated form rather than an alternative.
 - (d) The possible modifications to the project, which would eliminate or minimize adverse effects, including a discussion of the additional costs involved in such modifications.
 - (e) A description of the effects of the proposed recreation use on the following:
 - i. Water quality.
 - ii. Effect on adjoining properties and also the area served by the adjoining water body.
 - iii. Effect upon overcrowding of land or water bodies.
 - iv. Potential economic impact on adjacent properties, and the neighborhood.

K. Kennels.

1. All animals shall be adequately housed, fenced and maintained so as not to create a nuisance.
2. All gates on fences where the animals are enclosed must have a self-closing latch to which a lock may be fastened.

3. A maximum count of six (6) adult dogs are allowed per five (5) acres of land and one (1) animal for each additional acre, thereafter.

**ARTICLE VIII
R-2 RESIDENTIAL MULTIPLE FAMILY DISTRICTS**

Section 8.01. PRINCIPAL USES PERMITTED.

- A. Single family dwellings.
- B. Two family dwellings.
- C. Agriculture
- D. Private riparian recreation area. Subject to the restrictions contained in Section 7.02J.
- E. Buildings, structures and uses which are necessary to any of the above permitted uses.

Section 8.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Public or parochial schools and related educational facilities.
- B. Churches and cemeteries.
- C. Publicly owned buildings, parks and recreational facilities.

**ARTICLE IX
R-3 MOBILE HOME PARK**

Section 9.01. PRINCIPAL USES PERMITTED.

- A. Manufactured home parks and accessory structures.
- B. Nursery schools and day care center.
- C. Private riparian recreation area. Subject to the restrictions contained in Section 7.02J.
- D. Buildings, structures and uses which are necessary to any of the above permitted uses.
- E. Agriculture

Section 9.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Public or parochial schools and related educational facilities.
- B. Churches and cemeteries.
- C. Publicly owned buildings, parks and recreational facilities.

**ARTICLE X
R-4 MOBILE HOME SUBDIVISION**

Section 10.01. PRINCIPAL USES PERMITTED.

- A. Single family dwellings.
- B. Manufactured homes.
- C. Agriculture.
- D. Private riparian recreation area. Subject to the restrictions contained in Section 7.02J.
- E. Buildings, structures and uses that are accessory to any of the above permitted uses.

Section 10.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Public or parochial schools and related educational facilities.
- B. Churches and cemeteries.
- C. Publicly owned buildings, parks and recreational facilities.

**ARTICLE XI
C-1 NEIGHBORHOOD COMMERCIAL DISTRICT**

Section 11.01. PRINCIPAL USES PERMITTED.

- A. Any retail business which sells or rents merchandise within a completely enclosed building.
- B. Personal service establishments such as restaurants, Laundromats, barbershops, beauty shops and dry cleaning establishments.
- C. Repair shops for consumer items such as watches, shoes, furniture and appliances.
- D. Financial institutions.
- E. Agriculture.
- F. Buildings, structures and uses which are accessory to any of the above permitted uses.

Section 11.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Fruit markets and farm produce sales.
- B. Repair or service facilities for automobiles, trucks, farm machinery and similar equipment.
- C. Taverns, bars and other establishments that serve alcoholic beverages for consumption on the premises
- D. Funeral homes, mortuaries and cemeteries
- E. Township owned buildings, parks and recreational facilities.
- F. Churches, Schools and Cemeteries.

**ARTICLE XII
C-2 GENERAL COMMERCIAL DISTRICT**

Section 12.01. PRINCIPAL USES PERMITTED.

- A. Any retail business which sells or rents merchandise within a completely closed building.
- B. Personal service establishments such as restaurants, Laundromats, barbershops, beauty shops, and dry cleaning establishments.
- C. Repair shops for consumer items such as watches, shoes, furniture and appliances.
- D. Professional and business offices.
- E. Financial institutions.
- F. Publicly owned buildings, schools and churches.
- G. Buildings, structures and uses, which are accessory to any of the above, permitted uses.
- H. Agriculture.

Section 12.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Fruit markets and farm produce sales.
- B. Repair or service facilities for automobiles, trucks, farm machinery and similar equipment.
- C. Taverns, bars and other establishments that serve alcoholic beverages for consumption on the premises.
- D. Funeral homes, mortuaries and cemeteries.
- E. Indoor recreation establishments.
- F. Lodge halls, private clubs and auditoriums.
- G. Warehousing and storage within an enclosed building.
- H. Mini storage facilities.

**ARTICLE XIII
C-3 HIGHWAY COMMERCIAL DISTRICT**

Section 13.01. PRINCIPAL USES PERMITTED.

- A. Any retail business which sells or rents merchandise within a completely closed building.
- B. Personal service establishments such as restaurants, laundry-mats, barbershops, beauty shops, and dry cleaning establishments.
- C. Repair shops for consumer items such as watches, shoes, furniture and appliances.
- D. Professional and business offices.
- E. Financial institutions.
- F. Schools, churches and publicly owned buildings.
- G. Buildings, structures and uses, which are accessory to any of the above, permitted uses.
- H. Agriculture.

Section 13.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Open-air businesses such as drive-in theaters, racetracks, used car sales, farm machinery sales, fruit markets, or any retail business activities that are conducted outside of an enclosed building.
- B. Repair or service facilities for automobiles, trucks, farm machinery, and similar equipment.
- C. Taverns, bars, and other establishments that serve alcoholic beverages for consumption on the premises.
- D. Funeral homes, mortuaries, and cemeteries.
- E. Indoor recreation establishments.
- F. Hotels, motels, lodge halls, private clubs, and auditoriums.
- G. Warehousing and storage within an enclosed building.

**ARTICLE XIV
I INDUSTRIAL DISTRICT**

Section 14.01. PRINCIPAL USES PERMITTED.

- A. Warehousing and/or storage within an enclosed building.
- B. Wholesale establishments.
- C. Laboratories.
- D. Manufacturing, compounding, processing, packaging, assembling, or treatment of such products as: Pharmaceuticals, food products, paper, cloth, electronic instruments, electrical appliances, and similar items not involving stamping, foundry work, or similar heavy manufacturing processes.
- E. Tool and die shops.
- F. Automobile and light machinery repair facilities.
- G. Buildings, structures, and uses which are accessory to any of the above permitted uses.
- H. Agriculture.

Section 14.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Factories engaged in manufacturing, assembling, or machining, including any manufacturing process involving stamping or foundry work.
- B. Truck terminals or railroad yards.
- C. Airports/airstrips shall comply with Elba Township Ordinance 15.22 and any other applicable federal or state requirement.
- D. Removal, quarrying, or processing of sand, gravel, or similar materials under the conditions required by Section 6.02F.
- E. Industrial and/or heavy machinery repair facilities.

- F. Buildings, structures, and uses which are accessory to any of the above permitted uses.
- G. Junk yards completely enclosed by an obscuring fence pursuant to the requirements of Section K below.
- H. Sewage treatment and garbage incineration plants completely enclosed by an obscuring wall or fence.
- I. Sanitary landfills.
 - 1. Must comply with regulations defined in the Solid Waste Management Act Administrative Rules promulgated pursuant to Part 115 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.
 - 2. Must be completely enclosed by an obscuring wall, fence, or dense greenbelt.
 - 3. No excavation may occur within five hundred (500) feet of the center of any road or within five hundred (500) feet of any property line.
 - 4. Must be consistent with the Lapeer County Solid Waste Plan and have county approval.
- J. Kennels.
 - 1. All animals shall be adequately housed, fenced and maintained so as not to create a nuisance.
 - 2. All gates on fences where the animals are enclosed must have a self-closing latch to which a lock may be fastened.
 - 3. A maximum count of six (6) adult dogs are allowed per five (5) acres of land and one (1) animal for each additional acre, thereafter.
- K. Open Outside Storage.

The open outside storage of junk, scrap or salvage materials, or industrial products shall be allowed only in industrial zoning by special approval and shall be screened from public view and from adjoining properties not of a similar nature, by an enclosure consisting of an obscuring vinyl coated and/or wood fence not less than eight (8) feet in height and greenbelting.

**ARTICLE XV
GENERAL PROVISIONS**

Section 15.01. CONFLICTING REGULATIONS.

Whenever any provisions of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of the most restrictive/stringent Ordinance shall govern.

Section 15.02. ROAD FRONTAGE.

Every dwelling or other building shall be located on a lot or parcel, which shall front upon a public street or upon a private road or private drive constructed to the specifications of the Township Engineering Ordinance.

Section 15.03. MOVING OF BUILDINGS OR STRUCTURES.

Any building or structure shall not be moved upon any premises in the Township until a building permit for such a move shall have been secured. Any such building or structure shall fully conform to all the provisions of this Ordinance and the Township Building Code in the same manner as a new building or structure. No building or structure shall be moved to any site within the Township until the owner has posted a cash deposit in an amount specified by the Township Board, or Building Code Official, guaranteeing full compliance with the building permit and Township ordinances.

Section 15.04. PUBLIC SERVICES.

Facilities provided by any utility company or by the Township government shall be permitted in all zoning districts. Facilities permitted by this section shall include transmission lines, sewers, sewer mains, pumping stations, sub-stations, towers, poles, and related equipment. Any buildings erected shall be subject to the site plan review requirements of Article XIX. Any office, warehouse, manufacturing, or sales buildings must be located in a zoning district permitting that use. Cellular towers are not considered as public services.

Section 15.05. OCCUPANCY OF BUILDINGS OTHER THAN COMPLETED DWELLINGS.

Basements, garages, barns, and other accessory buildings shall not be occupied either temporarily or permanently as dwellings. No commercial or industrial buildings shall be occupied for dwelling purposes.

Section 15.06. SINGLE FAMILY DWELLINGS.

Any single family dwelling hereafter placed in the R-A, R-1, R-2, R-3 or R-4 zoning districts shall comply with the following minimum standards:

- A. **Minimum size.** Each dwelling shall contain the minimum number of square feet specified in Article XVIII, Section 18.01 prior to any alterations or additions. Each dwelling shall be at least twenty-four (24) feet in width.
- B. **Foundation.** Each dwelling shall be provided with adequate foundation supports. At a minimum, this shall include a concrete foundation, which extends at least forty-two (42) inches below grade and extending around the complete outside perimeter of the dwelling. Either a crawl space of not less than twenty-four (24) inches or a basement shall be provided. Adequate additional support in the form of columns or beams shall be provided

as required by the building inspector. Each dwelling shall be securely anchored to the foundation.

- C. **Roof.** Each dwelling shall have a roof with no less than a 3-12 pitch. This requirement shall not apply to earth sheltered dwellings.
- D. **Construction Code.** Each dwelling shall comply with the mobile home provisions of the construction provisions of the newest applicable revisions of the Michigan Building Code and attachment.
- E. **Storage Facilities.** Each dwelling shall have either a basement, garage or storage building containing at least one hundred sixty (160) square feet of storage area constructed at the same time as the dwelling.

Section 15.07. SIGNS.

All outdoor signs shall be regulated as follows:

A. MEASUREMENT OF SIGN AREA.

Sign area, unless otherwise noted herein, shall include the total area within any circle, triangle, rectangle, or other geometric shape or envelope enclosing the extreme limits of writing, representation, emblem, or any similar figure or element of the sign, together with any frame or other material forming an integral part of the display, if any, or used to differentiate such sign from the background against which it is placed.

- (a) In the case of a wall sign in which there is no frame or other material forming an integral part of the display or used to differentiate such sign from the background against which it is placed, the envelope shall be around the letters, logos, emblems, figures, pictures, etc.
- (b) In the case of an awning or canopy sign, where there is no design or envelope forming an integral part of the display which differentiates the sign from the background of the awning material or color, the envelope shall be around the letters, logos, emblems, figures, stripes, etc. In the case of transparent or translucent awnings or canopies which have internal lighting, the entire surface of the awning or canopy shall be considered as the sign.
- (c) For a single-faced sign, the area shall be computed as the total exposed exterior surface in square feet.
- (d) The area of a double-faced sign shall be computed using one face of the sign, provided that the outline and dimensions of both faces are identical and that the faces are back-to-back so that only one face is visible at any given location.

- (e) Except as provided for below, all double-faced signs shall be back-to-back. No angled signs forming a "V" shape will be allowed. Signs forming a cylindrical shape shall not be permitted.

B. SPECIFIC REGULATIONS.

1. Bulletin/Announcement Signs.

- (a) Shall not exceed sixteen (16) square feet in area.
- (b) Shall not exceed six (6) feet in height from grade.

2. Awning or Canopy Signs.

- (a) An awning or canopy sign may be used to display the name of the firm, the address or a symbol, or type of business, and shall be placed only on the principal front of the building.
- (b) An awning or canopy sign may be permitted in lieu of a permitted wall or monument sign.
- (c) An awning or canopy sign shall not exceed twenty (20) square feet in display area.
- (d) A minimum vertical clearance of fourteen (14) feet shall be provided beneath any awning or canopy sign, which projects over a parking area or driveway. In all other areas, a minimum vertical clearance of eight (8) feet shall be provided beneath an awning or canopy.

3. Identification Signs.

Identification signs shall be limited to:

- (a) One (1) unlit freestanding or wall-mounted sign for a permitted home occupation.
- (b) One (1) unlit wall-mounted identification sign may be permitted for each approved professional office.
- (c) An identification sign shall not exceed two (2) square feet in display area. Such wall-mounted signs shall not extend outward more than two (2) inches from the surface of a wall on the subject structure. Freestanding identification signs shall not exceed three (3) feet in height.

4. Monument Signs.

- (a) Monument signs shall not exceed eighty (80) square feet in display area. If the Planning Commission determines that architectural features of the sign, such as wood, rock or brick framing, are in harmony with the surrounding area and the principal structure, the architectural features of the sign shall not count as part of the display area. However, such architectural features shall not constitute greater than twenty-five (25%) percent of the total sign area and shall still conform to the six (6) foot height requirements.
 - (b) The principal sign of the site should be a monument style sign. Other types of signs will only be considered where construction or placement of a monument-type sign is not possible.
5. Directional/Off-Site Signs are not permitted in Elba Township.
6. Political Signs.
- (a) Political signs may be located in any district, provided that permission has been obtained from the property owner.
 - (b) One (1) non-illuminated political sign per candidate and per issue is allowed for each lot frontage; those located along a major thoroughfare or collector road shall not exceed sixteen (16) square feet per sign; and, if located along a local residential street, shall not exceed four (4) square feet per sign.
 - (c) Political signs shall be erected no earlier than forty-five (45) days prior to the election and shall be removed within ten (10) days after the election or primary.
 - (d) All candidates for political office and property owners shall be responsible to remove their political signs within the time frame cited in Section 15.07 B (6) "C" (above).
7. Projecting Signs.
- (a) Projecting signs are hereby prohibited, regardless of form, size, character or placement.
8. Pylon Signs.
- (a) Pylon signs are hereby prohibited, regardless of form, size, character or placement.
9. Real Estate Signs.
- (a) One (1) unlit real estate sign shall be permitted which advertises the sale, rental, or lease of the premises or property upon which said sign is located.

- (b) One (1) unlit sign indicating a building is "open" for inspection or open house shall be permitted for the duration of the open hours.
- (c) In residential districts, no such sign shall exceed eight (8) square feet in display area.
- (d) In non-residential zoning districts, such signs shall not exceed thirty-two (32) square feet in display area.
- (e) All such signs shall be removed within seven (7) days after the property has been rented, leased or sold, or the title is otherwise transferred.
- (f) No off-site/directional signs are permitted.

10. Real Estate Development Signs.

- (a) Real estate development signs shall be permitted for each development in which lots are still available. No such sign shall exceed thirty-two (32) square feet in sign area and eight (8) feet in height.
- (b) Such sign shall be removed within seven (7) days after all of the units or lots on that site have been sold or leased.
- (c) A real estate development sign shall not be allowed to occupy the property for more than two (2) years, except when an extension is granted. One (1) year extensions may be granted by the Planning Commission.
- (d) No off-site signs are permitted.

11. Subdivision or Apartment Entrance Signs.

- (a) A subdivision or apartment entrance sign shall not exceed thirty-two (32) square feet in sign display area. If the Planning Commission determines that architectural features of the sign are in harmony with the surrounding area and the principal structure, the architectural features of the sign shall not count as part of the display area in accordance with Section 15.07(A).
- (b) A subdivision entrance sign, including its architectural features, shall not exceed six (6) feet in height.
- (c) A subdivision entrance sign may be located in a traffic island at the entrance of a subdivision, if the Planning Commission determines that the sign will not obstruct motorist vision.

12. Temporary Signs.

- (a) A temporary sign shall not exceed thirty-two (32) square feet in display area. Freestanding temporary signs shall not exceed six (6) feet in height.**
- (b) The Township shall issue a permit, upon its own authority, to businesses, organizations or groups to display a temporary sign for a specific cause, function or activity. A maximum of two (2) temporary sign permits shall be permitted at any one location during a calendar year, with a combined permitted display time not exceeding thirty (30) days. This shall not apply to political or auction signs.**
- (c) Banners, pennants, spinners, streamers, balloons and other windblown signs or displays are permitted only for non-profit, institutional or community activities or events. These displays or signs are also permitted for new businesses. However, no display or sign shall be erected more than thirty (30) days prior to the activity or event or the opening of a new business.**
- (d) All signs and displays for a non-profit, institutional or community activity or event must be removed within seven (7) days following that event. In the case of a new business, all displays and/or signs must be removed no later than thirty (30) days after the opening of the business.**

13. Vehicle Business Signs.

- (a) Vehicles/trailers parked in such a manner they become business signs are prohibited within Elba Township.**

14. Wall Signs.

- (a) A wall sign shall not project more than twelve (12) inches horizontally beyond the wall of a building.**
- (b) A wall sign shall be used to display the name of the firm, the address or a symbol, or type of business.**
- (c) Wall signs shall not exceed the perimeter of the wall face.**
- (d) Wall signs shall not exceed ten (10%) percent of the signable area of the elevation on which the sign is to be placed, or eighty- (80) square feet, whichever is greater. In no case shall a wall sign exceed eighty- (80) square feet.**

15. Window Signs.

- (a) Window signs shall not occupy more than twenty (20%) percent of the total window area.

C. GENERAL REGULATIONS.

No sign may be erected, displayed or substantially altered or reconstructed, except in conformance with the regulations specified in this Ordinance. The following conditions shall apply to all signs regardless of use district, unless otherwise specified in this Ordinance:

1. Exemptions.

- (a) The following signs, as defined herein, are exempt from the site plan and building permit requirements. The signs shall, however, conform to all applicable regulations specified within this Ordinance.
- Handicap signs
 - Historical marker signs
 - Identification signs or nameplates
 - Political signs
 - Real estate signs
 - Warning signs
 - Window signs
- (b) County, State or Federal road or traffic control signs shall be exempt from the provisions of this Ordinance.
- (c) Signs not visible beyond the boundaries of the lot or parcel upon which they are situated, or from any public thoroughfare or right-of-way, shall not be counted toward the maximum number of signs permitted on the subject lot or parcel. Such signs shall also be exempt from display area regulations. Such signs shall remain subject to permit requirements, inspections, and height and setback requirements.
- (d) In all zoning districts, flags of the United States, the State of Michigan, any political subdivision of the State of Michigan, or other flags specifically approved by the Township Board for general display, are permitted as long as the size or number of such flag or flags are not of such nature that it would be commonly understood that their display was primarily intended to be a commercial advertisement to attract the attention of the general public.

2. Prohibited Signs.

Unless otherwise specifically permitted under this Ordinance, the following signs shall not be permitted or erected in the Township:

- (a) Cloth signs, balloon signs or displays, streamers, windblown devices, spinners, banners and pennants.

- (b) No flashing, oscillating, rotating, animated, moving, neon, or bare bulb-type signs or displays.
 - (c) Signs affixed to or painted on street furniture.
 - (d) Any other sign not specifically authorized hereunder.
3. **Locational Requirements.**
- (a) No sign, except as otherwise permitted herein, shall be located in, project into, or overhang a public right-of-way or dedicated public easement.
 - (b) No sign, except those established and maintained by the School District, County, State or Federal governments, shall be located within the triangle formed by the intersection of any road right-of-way and/or access drive at points twenty-five (25) feet distant from the point of their intersection.
 - (c) No signs shall be located so as to impede pedestrian or automobile traffic.
4. **Illumination.**
- (a) Illumination of signs shall be positioned and/or shielded so that the light shines away from adjoining properties and the eyes of motorists or pedestrians. The light source of such illumination shall be shielded from public view.
 - (b) Specialty lighting, such as neon accent lighting or "open" sign, may be permitted by the Planning Commission on a finding that the proposal is in character with the use and not detrimental to other uses in the vicinity.
 - (c) A lighted display of time, temperature, or stock market information shall be permitted as part of a sign subject to Planning Commission review and approval.
5. **Maintenance of Signs.**
- If, upon inspection by the Building Inspector, a sign is found to be unsafe, insecure, corroded, subject to corrosion, or otherwise poorly maintained, then the owner shall make the sign safe and secure by completing any necessary reconstruction, repairs, painting or other improvements in accordance with the following timetable, unless the sign is required to be removed by the nonconforming sign regulations herein:
- (a) If the Building Inspector determines that the sign is an immediate threat to the safety of persons or property nearby, all required action to correct the defect shall be taken within forty-eight (48) hours (two working days) from the time of notification in writing from the Building Inspector, provided that the sign can be cordoned off or adequately secured during the intervening time so as to remove

any immediate threat to safety. If such sign cannot be cordoned off or secured so as to eliminate any immediate threat to the safety of persons or property, then all required action to correct the defect shall be made forthwith.

- (b) If the Building Inspector determines that the sign is not an immediate threat to the safety of persons or property, all required action to correct the defect shall be made within thirty (30) days after notification in writing from the Building Inspector. The Building Inspector may extend the thirty (30) day timetable if temperatures below twenty-five (25) degrees Fahrenheit prevent painting, or if the defects involved are minor, not generally noticeable to the public, and not a hazard to public safety (such as replacement of burned out light bulbs).
- (c) If defects are not corrected within the specified time limits, the Township may remove, or cause to be removed, such sign at the expense of the sign owner or tenant to whom the sign applies. Such expenses shall be paid within thirty (30) days after receiving notification of such expense from the Township. Such notification shall be made by first class mail.

6. Nonconforming Signs.

Any sign already established by the effective date of this Ordinance which is rendered nonconforming by the provisions of this Ordinance, and any sign which is rendered nonconforming as a result of subsequent amendments hereto, shall be subject to the regulations concerning nonconforming signs as follows:

- (a) Any sign in a residential district which is a nonconforming sign shall be taken down and removed by the owner, agent, or person within thirty (30) days after written notice from the Building Inspector.
- (b) Any sign which advertises a business or industry no longer being conducted, or a product no longer being manufactured or sold on the property, shall be considered nonconforming. Such signs shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or land within thirty (30) days from the date of written notice from the Building Inspector. However, where such a sign structure and frame are typically reused by the current occupant or business in leased or rented buildings, the building owner shall not be required to remove the sign structure and frame in the interim periods when the building is not occupied, provided that the sign structure and frame are maintained in accordance with this chapter and other relevant Township ordinances and codes, and provided, further, that the time period of non-use does not exceed ninety (90) days.
- (c) Any sign in business and industrial districts which is a conforming sign as to use and advertises a bona fide business or industry being conducted or a product being manufactured or sold on the property, but is nonconforming as to size, projection, location, number of signs, position, material or construction, shall be

taken down, removed, repaired, rebuilt or replaced, in such a manner as to bring the sign into compliance, by the owner, agent or person having the beneficial use of the building, structure or land within (5) years from the effective date of this ordinance.

- (d) Any sign that is damaged by fire, wind, vehicles, vandalism, etc., for which the cost of repairs to the sign, mountings, structures, lights or frame exceed fifty (50%) percent of the value of the sign, then the entire sign shall be removed and reconstructed to bring into conformance with this Ordinance.

7. Removal of Signs.

Whenever a sign is removed or is required to be removed by this Ordinance or by order of the Building Inspector, the entire sign structure, including fastenings and anchorages, shall be removed. The Township shall have the authority to remove the entire sign structure, including fastenings and anchorages, if the owner or person in possession of said sign fails to comply with the Building Inspector's order. The cost of removal shall then be charged to the land owner.

D. ZONING DISTRICT REGULATIONS.

For the purposes of this Section, the term "site" shall be defined as all land in a development which is necessary or indicated as part of the development proposal to meet parking requirements, setback requirements, landscape requirements, drainage requirements (i.e., retention or detention basin), and lot coverage requirements.

1. Residential Zoning Districts (All Residential Zoning Districts).

- (a) One (1) identification sign or nameplate is permitted for each dwelling unit with a permitted home occupation.
- (b) One (1) announcement or bulletin board sign is permitted for each approved institutional, educational and religious building site.
- (c) One (1) subdivision entrance sign for each major entrance to a residential subdivision, mobile home park and multiple-family development, as approved in the site plan or subdivision approval.

2. Commercial Zoning Districts.

- (a) One (1) monument sign shall be permitted for each site.
- (b) One (1) wall sign shall be permitted for each tenant having an individual public entrance to a building. In those cases where multiple tenants share an entrance, one (1) wall sign shall be permitted to include all tenants.

- (c) In instances where a structure or planned group of structures is developed adjacent to more than one street or alley, one (1) wall sign shall be permitted on each wall fronting such street or alley.

3. Industrial Zoning Districts.

- (a) One (1) monument sign shall be permitted for each site, or one (1) wall sign shall be permitted for each business.
- (b) One (1) subdivision entrance sign shall be permitted for each major road entrance to identify an industrial or technical park.

E. SUBMISSION AND PERMIT REQUIREMENTS.

1. Permit Required.

No person shall alter, relocate, erect, re-erect or construct any sign unless a permit for it has been issued by the Zoning Administrator pursuant to this Ordinance. Signs which are approved as part of a site plan do not require a separate application and sign fees.

2. Application Permit.

- (a) Written application shall be made on forms provided by the Township for site plan review and approval by the Township Planning Commission.
- (b) Such application shall be accompanied by a site plan, sign drawing and sign data presented in accordance with the following requirements and showing the information hereinafter required:
 - i. The site plan shall show the location of all existing and proposed sign(s) on the site.
 - ii. The site plan shall show the location of existing and proposed streets, roadways, parking areas, entrances and exits within fifty (50) feet of the proposed sign(s).
 - iii. Drawings of the proposed sign(s) to be erected or installed on the site shall be submitted with the site plan and shall include all of the following detailed information:
 - a. Height of the sign above the ground.
 - b. Surface of the sign (material, color and dimensions).
 - c. Area of sign surface.
 - d. Lettering of sign drawn as it will appear on the erected sign. It shall be in the style of the finished sign and must be printed in the size and of a height approximating that of the final constructed sign.
 - e. Method and color of illumination, if any.
 - f. Logos, emblems or additional features.

- g. Such additional information as the Planning Commission deems necessary and/or pertinent to the application.
 - h. A drawing of the total building wall upon whose face the sign is to be displayed at a reasonable scale, preferably 1/4" = 1'0".
- (c) Once site plan approval is granted by the Township Planning Commission, and prior to altering, relocating, erecting, re-erecting or constructing any sign, the owner must first obtain the necessary permits from the Zoning Administrator.

Section 15.08. SWIMMING POOLS.

All swimming pools erected in the Township shall comply with the following requirements:

- A. **Building permit.** An application for a building permit to erect a swimming pool shall include the name of the owner, the location of the pool; a plot plan showing the location of adjacent buildings, fencing, gates, and public utilities; specifications and plans to scale of pool walls, slope, bottom walkway and diving boards; type and rating of auxiliary equipment, piping and valve layout; and any other detailed information affecting construction and safety features deemed necessary by the Building Inspector.
- B. **Fence.** All swimming pools shall be completely enclosed by a protective fence at least four (4) feet in height. All openings in any such fence shall be equipped with a self-closing, self-latching gate, which shall be securely locked when the pool is not in use. This requirement shall not apply to indoor pools or to aboveground swimming pools, which have walls, which extend four (4), or more feet above the ground and which have an adequate means of preventing unsupervised access by small children.

Section 15.09. GREENBELTS.

- A. In all zoning districts, no area within the required front yard setbacks shall be used for off-street parking or for any permanent or temporary structures other than signs permitted by Township Ordinances. Said front yard setback areas shall be planted with grass, shrubs, and other landscaping materials. Vehicle access drives may cross the front yard setback areas but shall not utilize more than fifty (50%) percent of said areas.
- B. There shall be maintained along the side and rear lot lines of all properties (other than those used for agricultural, single family or two family residential purposes) a greenbelt no less than five (5) feet wide.
- C. Whenever any property is developed for any use other than agricultural or single family or two family residential, and the property borders any property zoned for residential use, a greenbelt at least ten (10) feet in width along said borders shall be planted and maintained with evergreen trees no less than five (5) feet in height, spaced ten (10) feet on center, so as to provide a suitable buffer. No planting shall interfere with the clear view of traffic.

- D. Detailed landscaping plans indicating number, specie, caliper and type of plant materials for all greenbelts shall be provided on the site plan relating to the development and shall be considered as a material part of said site plan. No site plan shall be considered as having been complied with until the landscaping features have been completed.
- E. The Planning Commission shall review and approve the type of plantings required to provide a satisfactory greenbelt in any specific situation.

Section 15.10. PONDS.

All ponds shall be regulated and may be allowed through Use Permit Application for residential, commercial, agricultural or industrial uses and shall comply with the following minimum standards.

- A. Construction of all new ponds of 1/2 acre of permanent surface water area or larger will require a land use permit as defined by Elba Twp. Ordinance 40.1 Wetlands and Waterways.
- B. All enlargements, dredging/cleaning of existing ponds that will result in the removal of over one hundred (100) cubic yards of material shall require a permit.
- C. A use permit shall also be required for new construction, enlargements, dredging/cleaning of a pond which is:
 - 1. Contiguous to or within 500 feet of/or connected to an inland lake or stream.
 - 2. Contiguous to, or within 20 feet of a wetland of two (2) acres in size or more.
 - 3. Within the 100 year floodplain of a river or stream.
 - 4. A result of the construction of a dam across a river or stream.
- D. Ponds of five (5) acres of permanent surface water area or more, or if a part of a commercial/industrial project subject to engineering review by the Planning Commission.
- E. Private or residential ponds accessory to a single family home and agricultural or farm ponds may be permitted on a minimum of five (5) acres or more in the R-1 and R-A Districts.
- F. There shall be a setback of at least one hundred fifty (150) feet from the water's edge or point of beginning of any pond excavation to all:
 - 1. Property lines, easements and rights of way;
 - 2. Septic tanks, engineered/tiled septic systems;
 - 3. Wells.
- G. There shall be a minimum setback from any single-family home or primary structure of at least twenty-five (25) feet.

- H. There shall be no slope in excess of 1:3 (one-foot vertical to three-feet horizontal) on the pond floor until the water reaches a depth of five (5) feet, at the low water mark, on all sides of the pond.
- I. All spoils, which are placed on site, shall be contoured and bermed to blend with the surrounding topography. All berms or other areas where excavated materials are placed shall not exceed a maximum height of four (4) feet with a maximum slope of 1:3.
- J. Removal of excavated materials in excess of one thousand (1000) cubic yards shall require an application for special approval from Planning Commission.
- K. Pond construction, dredging/cleaning, enlarging or maintenance and operation including berming or placement of soils on site, shall not create or increase storm water or other surface water runoff to adjacent parcels, easements or rights-of-way or result in secondary accumulation of storm water, due to land balancing.
- L. Agricultural tile drains which are encountered during pond construction; dredging, enlargements or other operations shall not be cut, plugged or altered in any way which diminishes the function for which they were originally installed.
- M. Commercial use of any residential, farm or agricultural pond by the public for swimming, fishing, etc. shall be prohibited.
- N. All applications for pond approval shall be accompanied by a permit fee in the amount established by resolution of the Township Board.
- O. No pond shall be constructed in an established floodway or waterway.

Section 15.11. SEPTIC TANK INSTALLATION REQUIREMENTS.

Placement or installation of septic systems shall meet or exceed the requirements of Public Health Code, P.A. 368 of 1978, MCLA 33.12 et seq. and shall be approved by the Lapeer County Health Department. Additionally, a permit shall be obtained from the Lapeer County Health Department for the construction, alteration, repair or extension of a sewage disposal system associated with the building or property in question. Proper placement and installation of septic systems shall minimize degradation of groundwater and/or surface water. All forms of septic systems approved shall be properly isolated from wells, waterways, drains and wetlands. Setbacks will be a minimum of fifty (50) feet from the edge of the waterway, drains, wetland and/or to the edge of the nearest tile.

Section 15.12. SLOPE PROTECTION.

- A. Slope protection shall be required to ensure the following:
 - 1. Protect property, and/or public health and safety.
 - 2. Eliminate potential for geological phenomenon such as landslides or mud slides.

3. Retain community character, natural topography and scenic vistas, while preventing cutting or scarring of hillsides.
4. Reduce or eliminate erosion or sedimentation from slope destabilization.
5. Retain natural drainage ways and groundwater flow patterns.
6. Provide for safe circulation of pedestrian and vehicular traffic and access for emergency vehicles.

B. The following design standards shall serve as the basis for development of any property with steep slopes. Any proposed development of property, other than single family residential, with steep slopes is subject to engineering review by the Planning Commission. Steep slopes shall include land with a slope of thirty (30%) percent or greater, as determined by a topographic survey.

1. All exposed slopes and graded areas shall be landscaped with groundcover, shrubs and trees to prevent erosion and promote slope stabilization of the site.
2. Existing trees shall be incorporated into the development.
3. Natural drainage courses shall be protected.
4. Groundwater flow patterns shall not be interrupted.
5. Slopes created by grading of the site shall not exceed a slope ration of 1:3 (one foot vertical for 3 feet horizontal).
6. All graded areas shall be protected from wind and water erosion through acceptable slope stabilization methods such as planting, walls or netting and shall be approved by a registered architect or engineer. Interim soil and erosion control measures will be implemented in accordance with applicable local state and federal requirements.
7. Maximum coverage of the slope area of a parcel by impervious surfaces shall be as follows:

Slope	Maximum Useable Area
15-25%	60
26-35%	40
36%	20

Section 15.13. COMMUNICATION TOWERS.

Communication towers, including transmission towers, relay and/or receiving antennas, and normal accessory facilities involved in television, radio, microwave, cable systems, cellular, personal communication and similar communication services and facilities, may be allowed as special land uses in the (RA) Residential-Agricultural, (C) Commercial, and (I) Industrial Districts in conformance with the following requirements:

- A. The applicant shall submit a written statement and technical verification regarding the nature of any transmissions, electromagnetic fields, or any other radiation emitted from the facility, and any potential hazards to humans, animals, vegetation or property in the area. The applicant shall also submit a written explanation of the design characteristics and ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards. This information shall address the potential for the tower or other mounting structure and/or antennas to topple over or collapse and what tower configuration should be expected in such an event. Technical documentation of any information regarding these concerns shall also be provided.
- B. The minimum setback from any property line or road right-of-way shall be equal to the height of the tower.
- C. The tower or antenna shall not be unreasonably injurious to the safety, aesthetics, or market value of nearby properties.
- D. All towers and related equipment shall be designed to be compatible and harmonious in terms of style and building materials to the surrounding area. When necessary to insure compatibility with the surrounding area, a visual simulation may be required of the applicant. A visual simulation consists of an artist's or architect's rendering of how the tower will appear in the area proposed, taking into account existing buildings and natural features. The development of any such facility, together with accessory uses, shall be in such a location, size and character as to be compatible with the orderly development of the zoning district in which it is situated and shall not be detrimental to the orderly and reasonable development or use of properties in the adjacent areas or the community at-large.
1. Monopole antenna structures may be permitted in Elba Township. "Web" or "lattice" type towers shall be prohibited.
 2. All tower bases and related equipment shall be screened from view.
 3. In no event shall any tower be located within one and one-half (1-1/2) mile of any existing tower in order to encourage co-location.
 4. In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on the Township co-location, or the provision of more than one antenna and more than one user on a single tower at a single location, shall be strongly encouraged. In this regard, an applicant seeking to establish a new communications tower or antenna shall be required to provide information regarding the feasibility of co-location at existing sites. Before approval is granted for a new facility, the applicant shall demonstrate that it is not feasible to co-locate at an existing site.
- E. Co-location shall be deemed to be "feasible" for the purposes of this Section, where all of the following are met:

1. The site on which co-location is being considered, including reasonable modification or replacement of a facility, is able to provide structural support.
 2. The co-location being considered is technologically reasonable, i.e., the co-location will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
 3. Existing towers or structures are located within the geographic area which meets the applicant's engineering requirements.
 4. The fees, costs or contractual provisions required in order to share an existing tower or structure or to adapt an existing tower or structure for co-location are not unreasonable. For the purposes of this paragraph, costs exceeding new tower development are presented to be unreasonable.
- F. In furtherance of the Township's objective of strongly encouraging co-locations where feasible, should it be necessary to erect a new tower or antenna, the applicant shall provide a letter indicating willingness to lease excess space on a facility and commit itself to:
1. Respond to any requests for information from another potential shared use applicant,
 2. Negotiate in good faith and allow for leased shared use, provided it can be demonstrated that it is technically practicable, and
 3. Make no more than a reasonable charge, based upon fair market value, for a shared use lease.
- G. A condition of every approval of a communication tower shall be adequate provision for the removal of all of the facility by users and owners upon the determination that it has not been used for 180 days or more. Removal includes the proper receipt of a demolition permit from the Zoning Administrator. Proper restoration of the site to the satisfaction of the Planning Commission shall be completed.
- H. To insure proper removal of the tower when it is abandoned, any application for a new tower shall include a description of security to be posted at the time of receiving a building permit for the facility. In this regard, the security shall, at the election of the applicant, be in the form of: 1) cash bond, 2) irrevocable bank letter of credit for the term of lease, or 3) an agreement in a form approved by the Township Attorney and recordable at the office of the Register of Deeds, establishing the obligation of the applicant and the owner of the tower to remove the entire facility in a timely manner with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorney fees incurred by the Township in securing removal.
- I. An annual notification to the Township, by all users/co-locators or towers stating location and percent usage within the previous calendar year shall be provided to the Township no later than January 2nd of each year.

Section 15.14. SOIL EROSION AND SEDIMENTATION CONTROL.

All grading plans and specifications including extensions or previously approved plans shall comply with the requirements of Part 91, Soil Erosion and Sedimentation Control P.A. 451 of 1994, as amended and shall be approved by the Lapeer County Soil and Sedimentation Control Officer for soil disturbances or earth changes that:

1. Disturb more than one (1) acre or more of land,
2. Is within five hundred (500) feet of a lake or stream, or
3. Is within twenty (20) feet of a wetland area as defined on the Township's Wetland map or through inspection by a competent authority.

Section 15.15. WETLANDS & WATERWAY PROTECTION.

Local, State and Federal Agencies regulate protection of Wetlands. The State statute Part 303, Wetland Protection, P.A. 451 of 1994, as amended requires permits for activities, which may adversely affect wetlands that are:

1. Contiguous to a body of water such as a lake or stream, or
2. Are five (5) acres in size or more, or
3. In areas where there are protected or endangered species of wildlife or vegetation.

Elba Township Ordinance #40.1 Wetlands and Waterways establishes additional requirements for wetlands protection to include:

1. Lands to which ordinance applies;
2. The Elba Township Wetlands map;
3. Property inspection requirements;
4. Prohibited activities;
5. Activities not requiring a permit;
6. Nonconforming activities;
7. Use permit application process-residential;
8. Use permit application process-commercial/industrial;
9. Review standards for use permit applications;
10. Display of permits; and
11. Penalties and enforcement.

Section 15.16. DEVELOPMENT IMPACT STATEMENT.

- A. **Statement of Intent.** The purpose of the Development Impact Statement is to provide the Township with relevant information on the anticipated impact of a proposed development on public utilities, public services, traffic, the economy, environmental conditions, and adjacent land uses. This process recognizes that many development proposals have impacts on existing site conditions and that these impacts often extend beyond the boundaries of the

site. The intent of these standards is to identify and assess these impacts and, thereby, provide the Township with information necessary to understand and address these impacts.

B. Submission Requirements.

Qualifications of Preparer: Name(s) and address(s) of person(s) or firm(s) responsible for the preparation of the impact statement and a brief description of their qualifications.

A Development Impact Statement containing all the required information specified herein shall be required whenever one or more of the following conditions apply:

1. For any request for site plan review, special approval land use, or rezoning having an area of five (5) acres or more.
2. For any proposal for residential development (site plan, subdivision or site condominium) of twenty (20) or more units and/or resulting in a density of more than two (2) units per acre.
3. Any application for commercial rezoning shall be accompanied by a market study demonstrating that there is sufficient demand to support the project. The market study shall take into consideration the availability of existing retail and service businesses within the trade area and retail vacancy rates, as well as stating reasons why currently vacant buildings or properties are not a viable option.

C. Information and Data Required.

1. The Development Impact Statement shall include all applicable information as normally required for site plan review, rezoning, subdivision review, site condominium review, or special land use, as specified in the Zoning Ordinance and Subdivision Ordinance; and, in addition, the following supplemental information shall be required:
 - a. Location map at 1" = 200', indicating the location of the subject property in relation to the Township's thoroughfare system.
 - b. Zoning Map, indicating the subject property and the zoning of adjacent properties for a radius of one-half (1/2) mile, measured from the boundaries of the site.
 - c. Land Use Map, indicating the subject property and adjacent land uses by type for a radius of one-half (1/2) mile, measured from the boundaries of the site. An aerial photograph may be used to illustrate this information.
 - d. Site conditions of the subject property, indicating the following information. All information shall be depicted graphically on an existing conditions map and accompanied by the most recent aerial photography supplied by the Lapeer

County Equalization Department or by the Southeast Michigan Council of Governments (SEMCOG).

- (1) Location and size of existing natural features, such as streams, bodies of water, floodplains, soil types and conditions, topography, and ground water table. If the possibility of wetlands exists on-site, an official wetlands assessment conducted by the Michigan Department of Environmental Quality or Township Wetlands Official shall be conducted.
- (2) Location and size of existing facilities and utilities (thoroughfares, water service, sanitary sewer, storm drain, gas lines, electric lines, etc.) on the site or available to serve the site.
- (3) Improvements adjacent to and directly across the street, i.e., driveway approaches, passing lanes, curb-cuts, etc.

- e. Conceptual Plan, showing how the proposed development relates to the above-referenced conditions.
- f. Other information, as determined by the Planning Commission, that may be necessary to assess the impact of the proposed development.

2. Impact Assessment.

The applicant shall provide information assessing the impact of the proposed development as it pertains to the following factors. The required information shall be provided in narrative and graphic formats, as appropriate.

a. Land Use Impacts.

- (1) Brief description of the proposed land use.
- (2) Hours of operation, if applicable.
- (3) Identify whether the proposed use will create dust, noise, odor or glare that may impact abutting property.
- (4) Project phasing plan or schedule.
- (5) Describe how existing natural features will be preserved.
- (6) Describe any impact on ground water quality or quantity.

b. Impact on Public Utilities.

- (1) Describe how the site will be provided with water and sanitary sewer facilities if available, including the adequacy of the existing public utility system to accommodate the proposed new development.
- (2) General calculations for water flows and water demands and how they relate to sewer line capacity.
- (3) For sites to be served by wells and septic systems, documentation of adequacy and/or permits from the Lapeer County Health Department shall be required.
- (4) Describe the methods to be used to control storm water drainage from the site. This shall include a description of measures to control soil erosion

and sedimentation during construction. Correspondence from the Lapeer County Drain Commissioner stating their initial concerns and recommendations shall be attached.

c. Impact on Public Services.

- (1) Describe the number of expected residents, employees, visitors or patrons, and the anticipated impact on public schools, police, fire and other emergency services. Particular attention to the relationship of the proposed development to the municipal fire stations. Letters from the appropriate agencies shall be provided, as appropriate.

d. Traffic Impacts.

Description of Existing Traffic Conditions:

- **Traffic Counts.** Existing conditions, including existing peak-hour traffic volumes and daily volumes, if applicable, on street(s) adjacent to the site. Traffic count data shall not be over two (2) years old, except the community or road agency may permit 24-hour counts up to three (3) years old to be increased by a factor supported by documentation or a finding that traffic has increased at a rate less than two (2%) percent annually in the past three to five years.
- **Roadway characteristics** shall be described and illustrated, as appropriate. Features to be addressed include land configurations, geometrics, signal timing, traffic control devices, posted speed limits, average running speeds and any sight distance limitations. Existing levels of service shall be calculated for intersections included within the study area.
- **Existing driveways and potential turning movement conflicts** in the vicinity of the site shall be illustrated and described.
- **The existing right-of-way** shall be identified, along with any planned or desired expansion of the right-of-way requested by the applicable road agency.
- **Approved developments within the study area** shall be part of all calculations for anticipated traffic.

e. Trip Generation.

- **For rezoning requests where a traffic study is required,** the study should contrast the traffic impacts of typical uses permitted in the requested zoning district with uses permitted in the current zoning district. The determination of typical uses shall be made by the Planning Commission.
- **Any trip reduction for pass-by trips, transit, ride sharing, other modes, internal capture rates, etc.** shall be based both on ITE findings and documented survey results acceptable to the agency reviewers. The community may elect to reduce the trip reduction rates used.
- **For projects intended to be developed in phases** the trip generation by phase shall be described.

- f. **Trip Distribution.**
The projected traffic generated shall be distributed (inbound vs. outbound, left turn vs. right turn) onto the existing street network to project turning movements at site access points and nearby intersections, where required. Projected turning movements shall be illustrated in the report.
- g. **Impact Analysis.**
Level of service or "capacity" analysis at the proposed access points using the procedures outlined in the most recent edition of the Highway Capacity Manual published by the Transportation Research Board.
- h. **Access Design/Access Management Standards.**
The report shall include a map and description of the location and design of proposed access (driveways or new street intersections), including any sight distance limitations, dimensions from adjacent driveways and intersections within 250 feet on either side of the main roadway, data to demonstrate that the number of driveways proposed are the fewest necessary, support that the access points will provide safe and efficient traffic operation, and be in accordance with the standards of Elba Township and the Lapeer County Road Commission (not required for rezoning application).
- i. **Other Study Items.**
The traffic impact study shall include:
- Need for, or provision of, any additional right-of-way where planned or desired by the applicable road agency.
 - Changes which should be considered to the plat or site plan layout.
 - Description of any needed non-motorized facilities.
 - If the use involves a drive-thru facility, the adequacy of the (queuing and/or stacking) area should be evaluated.
 - If a median crossover is desired, separate analysis should be provided.
 - If a traffic signal is being requested, the relationship of anticipated traffic to traffic signal warrants in the Michigan Manual of Uniform Traffic Control Devices. Analysis should also be provided on the impacts to traffic progression along the roadway through coordinated timing, etc.
 - Description of site circulation and available sight distances at site driveways.
 - Conflicts with pedestrian traffic within the development and along all site boundaries which require sidewalk access.
- j. **Mitigation/Restoration/Reconstruction Alternatives.**
The study shall outline appropriate measures and demonstrate any changes to the level of service achieved by these measures. Any alternatives or suggested phasing of improvements should be described. The measures may include items such as roadway widening, need for bypass lanes or deceleration tapers/lanes,

changes to signalization, use of access management techniques, or a reduction in the proposed intensity of use. Proposed measures should be discussed with the applicable road agency. The responsibility and timing of roadway improvements shall be described.

- k. All traffic impact studies shall be prepared by a registered Professional Engineer specializing in the preparation of traffic studies. The preparer shall have a minimum of three years of recent experience in the preparation of traffic impact analyses and provide evidence of ongoing familiarity with the Highway Capacity Manual.

D. Evaluation Standards.

In reviewing Development Impact Statements, the Planning Commission shall consider the information provided in relation to the following standards:

1. Land Use Impacts.

- a. The use shall not result in a negative impact on surrounding development, taking into consideration the type and intensity of use on the basis of the potential for nuisances (glare, noise, odor, etc.).
- b. The use is compatible with planned development patterns, as expressed in the Township's adopted Master Plan.
 - Description of any needed non-motorized facilities.
 - If the use involves a drive-thru facility, the adequacy of the (queuing and/or stacking) area should be evaluated.
 - If a median crossover is desired, separate analysis should be provided.
 - If a traffic signal is being requested, the relationship of anticipated traffic to traffic signal warrants in the Michigan Manual of Uniform Traffic Control Devices. Analysis should also be provided on the impacts to traffic progression along the roadway through coordinated timing, etc.
 - Description of site circulation and available sight distances at site driveways.
 - Conflicts with pedestrian traffic within the development and along all site boundaries which require sidewalk access.
- c. Mitigation/Restoration/Reconstruction Alternatives.

The study shall outline appropriate measures and demonstrate any changes to the level of service achieved by these measures. Any alternatives or suggested phasing of improvements should be described. The measures may include items such as roadway widening, need for bypass lanes or deceleration tapers/lanes, changes to signalization, use of access management techniques, or a reduction in the proposed intensity of use. Proposed measures should be discussed with the applicable road agency. The responsibility and timing of roadway improvements shall be described.

- d. All traffic impact studies shall be prepared by a registered Professional Engineer specializing in the preparation of traffic studies. The preparer shall have a minimum of three years of recent experience in the preparation of traffic impact analyses and provide evidence of ongoing familiarity with the Highway Capacity Manual.
2. Public Utilities.
- a. Public water and sanitary sewers with adequate capacity to serve the site are available, as determined by the Township Engineer.
 - b. For sites where public utilities are not available, documentation has been provided by the appropriate agency that the site is capable of supporting on site wastewater disposal systems and well(s).
 - c. That the drainage plan for the proposed development is adequate to handle anticipated storm water runoff, and will not cause undue runoff onto neighboring property or overloading the watercourses in the area.
 - d. That the plan provides for the proper extension of public utilities and drainage improvements as provided for in the Township Master Plan and as determined by the Township Engineer.
3. Public Services.
- a. The Township is capable of providing police and fire protection to the proposed development on the basis of existing equipment and personnel.
 - b. Adequate recreation facilities are available to serve the anticipated residents of the development (applicable to residential projects only).
 - c. Public schools are available to serve the anticipated number of children to be generated by the proposed development (residential projects only).
4. Economic Impacts (for rezoning only).
- a. The project will have a beneficial impact on the local economy by increasing employment opportunities and increasing and diversifying the Township's tax base.
 - b. The applicant has demonstrated that a sufficient market demand exists to support the use based on a documented market study and that the use will not create vacancies for existing retail establishments within the trade area.
5. Traffic Impacts.

- a. The proposed development has access to a public road capable of supporting the development.
 - b. The use will not increase traffic that will effectively result in a lower level of service on the abutting road or at intersections proximate to the site.
 - c. The number of driveways serving the site is the minimum necessary to accommodate anticipated traffic.
 - d. The placement and design of driveways will accommodate safe movement of traffic into and out of the site.
 - e. Adequate provisions have been made to accommodate pedestrians.
 - f. Appropriate mitigation measures have been provided to address the anticipated traffic impacts of the development.
6. Natural Resources.
- a. That natural resources will be preserved to the maximum extent feasible, and that areas to be left undisturbed during construction shall be so indicated on the plan.
 - b. The proposed development does not encroach into waterways, floodways floodplains, or wetlands.
 - c. That soil conditions are suitable for excavation and site preparation and the wet or unstable soils not suitable for development will be either undisturbed or modified in an acceptable manner.
 - d. The proposed development will not cause soil erosion or sedimentation problems.
7. Any adverse impacts which are the direct result of mitigation strategies shall also be addressed.
- E. Processing Requirements.
- 1. A Development Impact Statement shall accompany applications for rezoning, special land use, site plan review, tentative preliminary plat approval and preliminary condominium approval.
 - 2. The Development Impact Statement shall be considered, along with other applicable information required for the specific request, and shall be considered by the Planning Commission and/or Township Board, as required in this Ordinance.

Section 15.17. HOME OCCUPATIONS.

A. CLASSES OF HOME OCCUPATIONS.

1. The general characteristics of the three classes of home occupations are described as follows:
 - a. Class I home occupations are those which are not visible from outside the dwelling and which have no impact on the residential character of the neighborhood. Class I home occupations are allowed in all residential zoning districts.
 - b. Class II home occupations are to have minimal impact on the neighborhood and do not involve the use of accessory buildings. Class II home occupations may only be approved in the R-A or R-1 districts.
 - c. Class III home occupations are also intended to have minimal impact on the neighborhood, but do allow the use of accessory buildings. Class III home occupations may be approved only in the R-A district.
2. No approval from the Elba Township Planning Commission is required for a Class I home occupation. In addition to all required general conditions, a Class I home occupation must observe the following restrictions:
 - a. All activities shall be carried on inside the dwelling unit. No storage shall be permitted outside the dwelling unit or in any accessory building.
 - b. No customers are allowed at the dwelling unit.
 - c. No vehicular traffic from customers, shipments or deliveries is allowed. No special business vehicles generated by the home occupation are permitted on the premises.
3. A Class II home occupation may only be allowed with approval of the Elba Township Planning Commission. In addition to all required general conditions, a Class II home occupation must observe the following restrictions:
 - a. Class II home occupations are not permitted within two family or multiple family dwellings.
 - b. The Class II home occupation shall not generate traffic in excess of that which might be expected in a residential neighborhood, but in any case shall not exceed ten (10) vehicle trips per day, excluding those trips by the occupants of the home. Shipments or deliveries by vehicles having more than two (2) axles are prohibited.

- c. There shall be no more than two (2) customer vehicles generated by the Class II home occupation parking on the premises at any time. There shall be no special business vehicles generated by the home occupation permitted on the premises at any time. All parking generated by the home occupation must be provided on the premises and not on streets or roads.
 - d. A Class II home occupation shall not offer for sale any article or service which is not produced on the premises, except produces incidental to services performed or articles produced on the premises. No services for animals are permitted.
 - e. Distributors who involve door-to-door sales of consumer goods sold at retail, but not include sales at the dwelling unit or any on-site storage of other than minimal inventory, may be permitted as a Class II home occupation.
 - f. The Elba Township Planning Commission may stipulate the hours of operation.
 - g. Should an approved home occupation cease activities for a period of one (1) year, or if the type of home occupation changes, re-application must be made to and approval must be granted from the Elba Township Planning Commission prior to resumption of the home occupation activity.
4. A Class III home occupation may only be allowed with approval of the Elba Township Planning Commission. In addition to all general conditions, a Class III home occupation must observe the following restricted conditions:
- a. A Class III home occupation may be permitted in both the dwelling unit and accessory buildings.
 - b. A Class III home occupation shall not generate traffic in excess of that which might be expected in a residential neighborhood, but in any case shall not exceed ten (10) vehicle trips per day, excluding those trips by occupants of the home.
 - c. There shall be no more than two (2) customer vehicles generated by the Class III home occupation parking on the premises at any time. All parking generated by the Class III home occupation must be provided on the premises and off the street.
 - d. A Class III home occupation shall not sell or offer for sale any article or service which is not produced on the premises, except products incidental to services performed or articles produced on the premises.
 - e. The Elba Township Planning Commission may stipulate the hours of operation.
 - f. Should an approved home occupation cease activities for a period of one (1) year, or if the type of home occupation changes, re-application must be made to and approval must be granted from the Elba Township Planning Commission prior to resumption of the home occupation activity.

B. GENERAL CONDITIONS. The following general conditions shall apply to all Home Occupations:

1. A home occupation use shall not change the character of the residential nature of the premises, both in terms of use and appearance.
2. A home occupation use shall not endanger the health, safety, welfare, or enjoyment of any other person in the area, by reason of noise, vibration, glare, fumes, odor, unsanitary or unsightly conditions, electrical interference, fire hazards, or the like, involved in or resulting from such home occupation.
3. No employees shall be permitted, either gratuitously or for compensation of any kind, other than members of the immediate family residing in the dwelling unit.
4. There shall be no internal or external alterations, additions, or changes to, or special construction features placed in, on, or about the dwelling unit, to accommodate or facilitate the home occupation except as required for a Class II or Class III home occupation.
5. A home occupation shall not involve any public or private nuisance.
6. A home occupation must be clearly incidental and secondary to the primary use of the dwelling unit for dwelling purposes.
7. A home occupation shall not be located in a dwelling unit in any area zoned other than residential or agricultural.
8. Only one Class II or Class III home occupation in a dwelling unit shall be permitted at one time.
9. All activities, except horticultural, relating to the home occupation shall be carried on indoors. There shall be no outdoor storage of items.
10. There shall be no outside display of any kind, nor any change in the outside appearance of the dwelling unit. Class I and Class II home occupations are allowed one (1) non-illuminated name plate sign containing only the name, address, and occupation of the resident of the dwelling unit, not more than two (2) square feet in area, which shall be mounted flat against the wall of the dwelling unit. A Class II or Class III home occupation in an R-A zoning district may be allowed one (1) non-illuminated sign not to exceed nine (9) square feet.
11. The home occupation shall utilize no more than twenty (20%) percent of the floor area of the dwelling unit.
12. No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal

human senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the lot, or causes fluctuation in line voltage off the lot.

13. An occupation requiring township, county, state, or federal registration or licensing shall be registered or licensed and shall comply with all township, county, state, and federal laws and regulations. Occupations requiring alterations or modifications to the dwelling unit for the purpose of complying with licensing laws or regulations will not be permitted in a Class I home occupation.
14. A home occupation approval is for the applicant and members of his or her immediate family residing in the dwelling unit. Home occupation approval is not transferable with sale, rental or lease of the dwelling unit.

C. APPROVAL PROCEDURE FOR HOME OCCUPATIONS.

1. Class I home occupations require no township approval. Class II and Class III home occupations may be permitted by the Elba Township Planning Commission as uses permitted after special approval pursuant to the public hearing and other requirements of Article XX of this Ordinance.
2. Prior to granting approval, the Planning Commission must determine that the proposed home occupation is not incompatible with the already existing land uses in the area, would not be detrimental to the safety or convenience of vehicular or pedestrian traffic, and complies with the general conditions of sub-section 15.18B.
3. The site plan need not be a formal site plan complying with the requirements of Article XX. A plot plan and letter describing the proposed use, portion of the dwelling devoted to the home occupation use, lot identification (address and property number), size of lot, dimensions of lot lines, existing improvements, location of structures on adjacent lots within one hundred (100) feet, abutting streets, and driveway, shall be sufficient.

Section 15.18. CAMPING AND RV OCCUPANCY STORAGE.

RECREATIONAL OCCUPANCY. The owner or lessee of any premises may permit the temporary occupancy and or storage of no more than two (2) recreational vehicles or campsites for a period not to exceed sixty (60) days within any calendar year. Occupancy under this section shall be limited to the owners or lessees of the premises or their non-paying guests. This restriction shall cover recreational vehicles, travel trailers, motor homes, truck campers, tents and any other camping facilities. This regulation shall not apply to campgrounds which are licensed by the State of Michigan and which are in compliance with the Township Zoning Ordinance.

Section 15.19. CONDOMINIUM SUBDIVISION APPROVAL.

Single family detached condominiums may be allowed as a permitted use in any single-family zoned district, subject to the requirements of this section. The intent of these requirements is to ensure that all condominium subdivisions are developed in compliance with the standards applicable to similar forms of development under Township Ordinances.

A. Review.

Pursuant to authority conferred by Section 141 of the Condominium Act, all Condominium Subdivision Plans shall require approval by the Planning Commission before site improvements may be initiated. The review process shall consist of the following two steps.

1. **Preliminary Plan Review.** In the preliminary review phase the Planning Commission shall review the overall plan for the site including basic road and unit configurations and the consistency of the plans with all applicable provisions of the Township Ordinances. Plans submitted for preliminary review shall include information specified in items 1, 2, and 3 of the submission requirements in subsection B below.
2. **Final Plan Review.** Upon receipt of preliminary plan approval, the applicant should prepare the appropriate engineering plans and apply for final review by the Planning Commission. Final plans shall include information as required by items 1-7 of the submission requirements. Such plans shall have been submitted for review and comment to all applicable county and state agencies. Final Planning Commission approval shall not be granted until such time as all applicable review agencies have had an opportunity to comment on the plans.

B. Submission Requirements.

All Condominium Subdivision Plans shall be submitted for review as required by Section 19 of this Ordinance (site plan review) and Section 66 of the Condominium Act, and shall also include the following information.

1. A survey of the condominium subdivision site.
2. A plan delineating all natural features on the site including, but not limited to ponds, lakes, drains, floodplains, wetlands and woodland areas.
3. The location, size, shape, area and width of all condominium units, and the location of all proposed streets.
4. A copy of the Master Deed and a copy of all restrictive covenants to be applied to the project.
5. A utility plan showing all sanitary sewer, water, and storm drainage improvements, plus any easements granted for installation, repair and maintenance of utilities.

6. A street construction, paving, and maintenance plan for all streets within the proposed Condominium Subdivision Plan.
7. A storm water drainage and storm water management plan, including all swales, drains, basins, and other facilities.

C. District Requirements.

The development of all condominium subdivisions shall observe the applicable yard setbacks and minimum floor area requirements for structures within the zoning district within which the project is located. The dwelling unit density of the project shall be no greater and spacing no less than would be permitted if the parcel were subdivided into individual lots.

D. Streets.

All streets in a condominium subdivision shall conform to the more strict of either the Lapeer County Road Commission Standards or the Elba Township Standards for the subdivision streets. Public streets may be necessary to provide continuity to the public road system.

E. Utility Easements.

The Condominium Subdivision Plan shall include all necessary easements for the purpose of the constructing, operating, inspecting, maintaining, repairing, altering, replacing and/or removing pipelines, mains, conduits and other installations of a similar character for the purpose of providing public utilities, including the conveyance of sewage, water and storm water run-off across, through, and under property subject to said easement, and excavating and refilling ditches and trenches necessary for the location of said structures.

F. Engineering Reviews.

Copies of an "as built" survey shall be provided to the Township demonstrating compliance with applicable Township Ordinances.

Section 15.20. PARCEL DEPTH AND WIDTH RESTRICTIONS.

The area, setback and height requirements for zoning districts shall be measured at the road right-of-way line. In no case shall the depth of any lot or parcel exceed four (4) times the average width of the lot or parcel. The last (final) parcel, retained by proprietor is the only exemption to the 4 to 1 rule; and need not conform.

Section 15.21. REZONING.

The Township Board may, after a public hearing by the Township Planning Commission, amend the regulations or the district boundaries of the ordinance pursuant to the authority and according to the procedures set forth in Act 184 of the Public Acts of 1943, as amended. Proposed

amendments to the regulations or district boundaries of the Ordinance may be initiated by the Township Planning Commission, Township Board, or an individual petitioner. Whenever an individual petitioner requests a zoning amendment, the petitioner shall be the fee owner of the premises concerned or else have the fee owner also subscribed to this petition, and shall submit a petition for rezoning to the Township Clerk. Any applicant desiring to have any change made in this Ordinance shall, with the petition for such change, deposit a fee as established by the Township Board with the Township at the time that the petition is filed to cover the publication and other miscellaneous costs of said change. In addition to the above stated requirements, rezoning requests will not become effective unless and until the petitioner submits and the Township approves and accepts a surveyed legal description of the real property which is the subject of petitioner's rezoning request.

Section 15.22. AIRPORTS/AIRSTRIPS/LANDING FIELDS.

Airports, airfields, runways, hangars, beacons, helicopter pads and other facilities involved with aircraft operations, subject to all rules and regulations of the Federal Aeronautics Administration, and Michigan Aeronautics Commission, which agency may approve the preliminary plan submitted to Elba Township.

All aircraft approach lanes, as established by appropriate aeronautical authorities, shall be developed/constructed as to not endanger the permitted land users in the area and/or adjoining properties. Permitted heights shall design the proposed facility in accordance with the rules and regulations of the Michigan Aeronautics Commission (MAC). **MAC approval does not necessarily guarantee Special Land Use Approval from Elba Township.**

A. The Application For Special Land Use Shall Include:

1. The type and daily number of aircraft in the proposed operation.
 - a. For private use, type and number of aircraft, together with registration numbers and owners of the aircraft which will be based and/or operated at any time out of the landing area; to include proposed hours of operation.
 - b. For public use, limitations (if any) to be placed upon the type of aircraft which will utilize the landing area and limitations (if any) to be placed upon the hours of operations of landing operation(s).
2. Listing of navigation and communication equipment or devices which will be employed and utilized at the proposed landing area.
3. On the site plan, a designation of landing area and taxi area lighting and method of activating lighting.
4. Identification of access roads, on site roads, grades for property drainage and any special drainage devices, any existing or proposed structures on site, existing or proposed structures on site existing and proposed utility.

5. Location of any hazards to air navigation which may affect the landing area with specific reference to any trees/utility wires which are required or contemplated to be removed.
 6. Location and surface of proposed and existing runways.
- B. Requirements And Standards For Approval On Land Use: Decisions on application for special land use, shall be based upon the following:
1. Runways shall be a minimum of five hundred (500) feet in length and a minimum of fifty (50) feet in width.
 2. No obstruction shall exist within fifty (50) feet on each side of the center line of the landing strip/field.
 3. Runway ends shall be a minimum of one thousand fifty (1050) feet from roadway and property lines.
 4. Runways shall be set back from the property lines, a minimum of two hundred (200) feet on either side at all points along the runway.
 5. Upon issuance of permit or special land use approval, the owner shall obtain liability and property damage insurance with a company licensed to do business in Michigan. The coverage shall be in the amount of five million dollars for liability and one million dollars for property damage. Elba Township shall be shown as additional named insured and a copy/proof of certificate of insurance shall be provided to Elba Township. The Township shall be notified not less than thirty (30) days in advance of any cancellation. Upon cancellation of policy the special approval is revoked, granting airstrip/airport.
 6. No obstruction shall exist at each end of the landing field such that the obstruction would extend above the inclined plane beginning at the ends of the runway two hundred (200) feet wide or the width of the landing field, whichever is greater, and widening uniformly to a width of five hundred (500) feet at the property boundary with a slope of twenty to one (20:1) and obtaining clearance of fifty (50) feet at the boundary property.
 7. The Planning Commission shall find the proposed use will not significantly change the character of the neighborhood or unreasonably reduce the value of nearby property.
 8. The proposed establishment or expansion of airport, airfield, or airstrip shall not, in any way, conflict or overlap with flight patterns and approach areas of other airport landing fields.

9. An existing private landing field shall not be allowed to expand to provide use of public or commercial nature.
10. No aircraft will be hangared, tied down or parked within the required setbacks as herein described and required.
11. No part of the runway or taxi strip (that area which an aircraft may pass to enter or exit the runway) shall be one thousand fifty (1050) feet of the boundary of a zoned district other than the districts which allow this use after special approval, as set forth in this Zoning Ordinance.
12. Storage of damaged or wrecked aircraft shall be limited to thirty (30) days unless such aircraft is part of any State or Federal investigation into the cause of an aircraft crash.
13. The approach to all runways landing strips, landing field, and the like, shall not be located over the properties zoned other than the zoning permitted after special approvals, for at least one-quarter mile (1320') beyond the airport/airstrip property boundary.
14. Annual permit, subject to approval of General Township Board, effective each 1st day of June until May 31 each subsequent year.

Section 15.23. ACREAGE REQUIREMENTS FOR KEEPING OF ANIMALS.

Livestock shall be defined as hooved animals, horses, pigs, goats, sheep, cattle, emus, ostrich, llamas, camels, elk, reindeer, or other large exotic animals.

Domestic animals shall be defined as dogs and cats over ninety (90) days old.

Small animals shall be defined as all poultry, peacocks, chickens, pheasants, ducks, geese, all fur-bearing animals, mink, chinchilla, ferrets, rabbits and all similar animals.

For R/A (Residential/Agricultural) zoning locations:

Ownership of livestock shall require a minimum of five (5) acres. Two (2) animals are allowed on the first five (5) acres and one (1) animal for each additional acre thereafter up to forty (40) acres. Two (2) animals are allowed for each additional acre in excess of forty (40) acres.

Ownership of dogs and cats are restricted to three (3) dogs and ten (10) cats per parcel.

Ownership of small animals is restricted to ten (10) animals up to five (5) acres. Five (5) animals are allowed for each additional acre thereafter. All animals must be housed and contained.

For R-1 (single Family Residential) zoning locations:

Ownership of livestock shall require a minimum of ten (10) acres. Two (2) animals are allowed on the first five (5) acres and one (1) animal for each additional acre thereafter up to forty (40) acres.

Ownership of dogs and cats are restricted to three (3) dogs and ten (10) cats per parcel.

Ownership of small animals is restricted to ten (10) animals with a minimum acreage of two (2) acres. One (1) animal is allowed for each additional acre thereafter up to a maximum acreage of five (5) acres. All animals must be housed and contained.

For R-2, R-3, R-4, and Platted Subdivisions Zoning Locations:

Number of domestic animals, poultry and rabbits, combined, shall not exceed ten (10) per parcel.

Raising of fur bearing animals or livestock is prohibited.

Section 15.24. REQUIREMENTS FOR DUMPSTERS/TRASH CONTAINERS.

All Dumpsters over residential trash can size (commercial style containers) must be concealed from sight either by stockade fencing and/or evergreen trees.

ARTICLE XVI NONCONFORMING LOTS, USES, AND STRUCTURES

Section 16.01. CONTINUED USE PERMITTED.

Within the districts established by this Ordinance there exist lots, structures, and uses of land and structures which were lawful prior to adoption of this Ordinance. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Section 16.02. NONCONFORMING LOTS OF RECORD.

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot or parcel of record at the effective date of adoption of the amendment of Section 16.01 of this Ordinance, provided that all minimum setback requirements can be complied with.

Section 16.03. NONCONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption of this Ordinance that could not be built under the terms of this Ordinance, such structure may be continued so long as it remains otherwise lawful, subject to the following provision:

1. No such nonconforming structure may be enlarged or altered in a way, which increases its nonconformity.
2. Should such nonconforming structure be destroyed by any means to an extent of seventy-five (75%) percent of its value, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
3. Should such structure be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 16.04. NONCONFORMING USES OF LAND OR STRUCTURES.

Where at the time of passage of this Ordinance lawful use of land or structures exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land or additional structures than that occupied at the effective date of adoption or amendment of this Ordinance.
2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.
3. If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
4. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.
5. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
6. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

7. Any nonconforming use may be continued despite a change of ownership or tenancy as long as the use is not extended or changed in any way that increases its nonconformity.

ARTICLE XVII OFF-STREET PARKING AND LOADING REQUIREMENTS

Section 17.01. PARKING REQUIREMENTS.

In all zoning districts, except those covered by the Elba Township Engineering Standards Ordinance, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees, and patrons of the buildings erected, altered or extended after the effective date of this Ordinance, shall be provided as herein prescribed. Such space shall be maintained and shall not be encroached upon so long as said main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance.

1. **Area for Parking Space.** For the purpose of this Section, three hundred (300) square feet of lot area shall be deemed a parking space for one (1) vehicle, including access aisles. See Section 17.02 for number of spaces required.
2. **Location of Parking Space for One and Two Family Dwellings.** The off-street parking facilities required for one and two family dwellings shall be located on the same lot as the building they are intended to serve, and shall consist of parking strip, parking apron, and/or garage.
3. **Location of Parking Space for Other Land Uses.** The off-street parking facilities required for all other uses shall be located on the lot or within five hundred (500) feet of the permitted uses requiring such off-street parking, such distance to be measured along lines of public access to the property between the nearest point of the parking facility to the building to be served.
4. **Seating Capacity of Seats.** As used in this Article for parking requirements, seats shall mean that each twenty-four (24) inches of seating facilities shall be counted as one (1) seat, except that where specifications and plans filed with the Building Inspector specify a certain seating capacity for a particular building, such specified seating capacity shall be used as the basis for required parking space.
5. **Similar Uses and Requirements.** In the case of a use not specifically mentioned, the requirements of off-street parking facilities for a use which is so mentioned, and which said use is similar, shall apply.
6. **Existing Off-Street Parking at Effective Date of Ordinance.** Off-street parking existing at the effective date of this Ordinance which serves an existing building or

use shall not be reduced in size less than that required under the terms of this Ordinance.

7. **Collective Provisions.** Nothing in this Section shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings or uses, provided such facilities collectively shall not be less than the sum of the requirements for the various individual uses computed separately.
8. **General Use Conditions.** Except when land is used as storage space in connection with the business of a repair or service garage, a twenty-four (24) hour time limit for parking in off-street parking areas shall prevail, it being the purpose and intention of the foregoing that the requirements of maintaining vehicle storage or parking space is to provide for the public safety in keeping parked cars off the streets, but such requirement is not designed to provide storage or parking on such open land of wrecked, junked, or inoperable vehicles. The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited within the required off-street parking.
9. **Handicapped parking facilities** are required as mandated by Federal and State law.

Section 17.02. TABLE OF OFF-STREET PARKING REQUIREMENTS.

The amount of required off-street parking space for new uses of buildings, additions thereto, and additions to existing buildings as specified above shall be determined in accordance with the following table, and the space so required shall be stated in the application for a building permit and shall be irrevocably reserved for such use. Required Number Per Each Unit of Parking Spaces Measure as Follows:

	Use	Required Number of Parking Spaces	Per Each Unit of Measure as Follows:
1	Auditoriums, Assembly Halls, and Theaters	1	Two (2) seats based upon Halls and Theaters maximum seating capacity in the main place of assembly therein, plus one (1) space for every two (2) employees.
2	Automobile Service Stations	2	Each gasoline pump and Stations lubrication stall.
3	Banks (other than drive-in type), Business or feet of usable floor area. Professional Office of Lawyers, Architects, Engineers, or similar professions.	1	Two hundred (200) square feet of usable floor area.
4	Barber Shops and Beauty Parlors	3	Each barber or beauty operator.
5	Bowling Alleys	4	Each bowling lane.

6	Churches	1	Two (2) seats, based on maximum seating capacity in the main place of assembly.
7	Drive-In Banks	4	Each teller window.
8	Drive-In Restaurants	1	Twenty-five (25) square feet of usable floor space, with a minimum of forty (40) parking places.
9	Furniture, appliances, and household equipment repair shops; showroom of a plumber, decorator, electrician or similar trade; clothing and shoe repair; laundry, motor vehicle salesroom, hardware stores, wholesale stores and machinery sales	1	Six hundred (600) square feet of usable floor area, plus one (1) space for each two (2) employees.
10	Golf Courses	1	Each two (2) employees plus one (1) space for every five hundred (500) square feet of usable floor area in the clubhouse, plus a minimum of ten (10) parking spaces per hole on the golf course.
11	Hotels, Tourist Homes, Motels	1	Guest bedroom
12	Industrial Establishments	1	One and one-half (1 1/2) employees computed on the basis of the greatest number of persons employed at any one period during the day.
13	Laundromat and/or Dry Cleaning Facilities	1	Every two (2) washing machines.
14	Libraries and Museums	1	Two hundred (200) square feet of floor space.
15	Medical Offices	1	One hundred (100) square feet of usable floor area.
16	Mortuary Establishments, Funeral Homes	1	Fifty (50) square feet of floor space in the slumber rooms, parlors or individual funeral service rooms.
17	Motor Vehicle/Car Wash		
17a	Self-service operation	4	Each motor vehicle wash establishment.
17b	Other than self-service operation	8	Each car wash establishment plus one (1) for each employee.
18	Private Clubs or Lodges	1	Every three (3) persons at minimum occupancy.
19	Residential-single, two-family or multiple dwelling or mobile home	2	Each dwelling unit.

20	Restaurant or single establishments, other than drive-ins, in which is conducted the sale and consumption on the premises of beverages, food or refreshments.	1	Fifty (50) square feet of usable floor area, plus one (1) space for each four (4) employees.
21	Retail Stores, Except as Otherwise Specified Herein	1	One hundred (100) square feet of usable floor space.
22	Sanitariums, Convalescent Homes, Hospitals	1	Two (2) beds.
23	Schools	1	Two (2) teachers, employees or administrators in addition to the requirements of the auditorium or assembly hall therein.
24	Service Garages, Auto Salesrooms, Auto Repair, Collision or Bumping Shops	1	Two hundred (200) square feet of usable floor area, plus one (1) space for each two (2) employees on the basis of the maximum number of employees on duty at any one time, plus two (2) spaces for each auto service.
25	Stadiums and Sports Arenas	1	Four (4) seats or eight (8) feet of benches.
26	Warehouse and Storage Buildings	1	One (1) employee computed on the basis of the greatest number of persons employed at any one period during the day or night, or one (1) space for every seventeen hundred (1700) square feet of floor space, whichever is greater.

Section 17.03. OFF-STREET LOADING REQUIREMENTS.

On the same premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale, market, hospital, mortuary, laundry, dry cleaning, or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, and unloading services in order to avoid undue interference with public use of the streets alleys, or any required access for off-street parking areas.

Such loading and unloading space, unless adequately provided for within a building, shall be an area ten (10) feet by fifty (50) feet, with fourteen (14) foot height clearance, and shall be provided according to the following schedule:

Gross Floor Area in	Loading and Unloading Spaces Required in Terms of Square
---------------------	--

Square Feet	Feet of Gross Floor
0 - 2,000	None
2,000 - 20,000	One (1) space
20,000 - 100,000	One (1) space plus one (1) space for each twenty thousand (20,000) square feet in excess of twenty thousand (20,000) square feet.
100 - 500,000	Five (5) spaces plus one (1) space for each forty thousand (40,000) square feet in excess of one hundred thousand (100,000) square feet.
Over 500,000	Fifteen (15) spaces plus one (1) space for each eighty thousand (80,000) square feet in excess of five hundred thousand (500,000) square feet.

- a. All such parking lots shall be hard-surfaced with a pavement having an asphalt or concrete binder, and shall be graded and drained so as to dispose of surface water, which might accumulate within or upon such area. No surface water from such parking area shall be permitted to drain onto adjoining private property.
- b. All illumination for such parking lots shall be deflected away from adjacent residential areas.

**ARTICLE XVIII
AREA, SETBACK AND HEIGHT REQUIREMENTS**

Section 18.01

Zoning District	Minimum Lot Area Per Dwelling Unit or Commercial/Industrial Bldg. (sq. ft.)	Minimum Lot Width (i) (ft)	Minimum Front Yard Setback (ii) (ft)	Minimum Side Yard Setback (iii) (ft)	Minimum Rear Yard Setback (iii) (ft)	Minimum Floor Area Per Dwelling (iv) (sq. ft.)	Maximum Building Height (ft)
R-A	5 acres with 4 to 1 ratio (max)	300	100	25	25 (viii)	1,200 (iv)	40 (v)
R-1	40,000 30,000 (vi)	100	30	10	15 (viii)	1200 (iv)	40 (v)
R-2	20,000	80	30	10	15 (viii)	1200	25 (v)
R-3	10,000 (vii)	80	30	10	15 (viii)	980	25 (v)
R-4	20,000	80	30	10	15 (viii)	1200	25 (v)
C-1	50,000 (ix)	150	50	20	20		25
C-2	50,000 (ix)	150	50	20	20		25
C-3	50,000 (ix)	150	50	20	20		25
I	50,000 (ix)	150	50	40	40		50

- (i) Measured at the road right-of-way line.
- (ii) Measured from road right-of-way line.
- (iii) In no case shall a building be constructed within 30 feet of any public road or right-of-way.
- (iv) The first floor of a dwelling containing more than one story shall contain at least 720 sq. ft. The total floor area of a dwelling with more than one story shall contain at least 1,200 sq. ft.
- (v) Not applicable to farm structures such as barns, silos, or grain elevators.
- (vi) Where public sewer and/or water is available, 30,000 sq. ft.
- (vii) Forty (40)-acre minimum site size for Mobile Home Park.
- (viii) An accessory building may be permitted in the required rear yard provided that there is maintained at least fifteen (15) feet between the building and the lot lines. A storage building of one hundred (100) sq. ft. or less for garden tools and equipment may be constructed in the required rear yard within three (3) feet of the lot lines with required rear yard setback. When an accessory building is located on a corner lot, the required front yard setbacks shall be maintained from each street.
- (ix) No parking allowed within the front yard setback area.

ARTICLE XIX SITE PLAN REVIEW

Section 19.01. PURPOSE.

The purposes of Site Plan Review are as follows: to determine compliance with the provisions of this Ordinance, to promote the orderly development of the Township, to prevent the depreciation of land values through uses or structures which do not give proper attention to siting or area protection, and to provide consultation and cooperation between the applicant and the Township Planning Commission in order that applicants may accomplish their objectives in the utilization of their land within the regulations of this Zoning Ordinance.

Section 19.02. SITE PLAN REVIEW REQUIRED.

A site plan shall be submitted for review according to the standards and procedures of this chapter for all proposed special approval uses and every construction project except the following:

- A. Single family dwelling units on individual lots.
- B. Residential and agricultural accessory buildings not requiring special approval.
- C. Farm buildings.
- D. Construction on or remodeling of any existing permitted use or building that does not require a site change or an exterior structural modification.

Section 19.03. APPLICATION PROCEDURE.

- A. Twelve (12) copies of an application for site plan review shall be made to the Township Clerk along with a fee as required by Township Board resolution. The application shall, at a minimum, contain the following information:
1. The applicant's name, address and phone number.
 2. Proof that the applicant is the owner of the property or has a legal or financial interest in the property, such as a purchase agreement.
 3. The name, address and phone number of the owner(s) of record if different than the applicant.
 4. The address and/or parcel number of the property.
 5. Project description, including number of structures and dwelling units, square footage of each building, number of parking spaces, estimated number of employees, and any unique features of the site or proposed development.
 6. Area of the parcel in acres, excluding road right-of-ways.
 7. A site plan for the project containing all of the information listed in Section 19.04 below.

Section 19.04. SITE PLAN CONTENT.

Each site plan submitted for review under this Article shall be drawn at a scale of 1 inch equals 40 feet. Unless specifically waived by the Planning Commission, each site plan shall contain the following information:

- A. Name of development and general location sketch showing major thoroughfares and site location.
- B. Name, address and phone number of site owner(s), site developer and site plan designer, including the professional seal and signature of a registered professional engineer.
- C. North arrow, scale, and date of original drawing and any revisions.
- D. The area of the site in square feet and acres.
- E. Property lines, dimensions, and building setback distances and dimensions of all structures and lot lines within one hundred (100) feet of the site.
- F. Existing zoning of the site and all adjacent properties.

- G. Existing and proposed topographic elevations at two (2) foot intervals on the site and to a distance of ten (10) feet outside the boundary lines of the site. Ground elevations of all existing buildings, drives and parking lots, and any unusual surface conditions shall be provided.
- H. Proposed storm water drainage features and existing or proposed structures as identified.
- I. Location of existing, and proposed buildings; their intended use; the length, width and height of each building; and the square footage of each building.
- J. Location of abutting railroads, electrical lines, streets, existing and proposed rights-of-way, service drives, curb cuts, and access easements serving the site, as well as driveways opposite the site and all driveways within two hundred (200) feet of the Site.
- K. Location and size of all existing and proposed water and sanitary sewer lines, storm drainage lines, wells, fire hydrants, catch basins, septic tanks, drain fields and utility easements.
- L. Proposed parking areas and access drives, showing the number and size of spaces, aisles, loading areas, and handicapped access ramps. Also, the method of surfacing such areas.
- M. Location of all proposed sidewalks, bike paths, and other pathways.
- N. Location and size of any proposed walls, fences, greenbelts, berms or other screening provisions.
- O. Landscape plans and planting details indicating type and size of all proposed plant material, including all areas to be sodded or seeded for grass.
- P. Location and type of significant existing vegetation, water courses, and water bodies including county drains and manmade surface drainage ways, floodplains, and wetlands. Trees, which are to be saved, shall be illustrated.
- Q. Building floor plans and architectural wall elevations. The height of all buildings or structures shall be indicated.
- R. Location of all proposed accessory structures, including outdoor lighting fixtures, flagpoles, storage sheds, transformers, Dumpsters or trash removal areas or devices, signs, and existing and proposed utility poles. Indicate screening for trash receptacles and design detail for existing and proposed sign height and square footage.
- S. Location of all outdoor storage materials areas and the manner in which materials will be screened or covered.

- T. If phased construction is to be used, each phase must be noted and each phase must stand on its own.
- U. Notation of any known variances or special use permits which are required, and any State or Federal permits, which have been secured or may be necessary to secure.
- V. Delineation of areas on the site which are known or suspected to be contaminated together with a report on the status of site cleanup.

Section 19.05. REVIEW PROCEDURE AND AUTHORIZATION.

Unless classified as a use permitted after special approval under Article XX, all site plans required under this chapter shall be subject to review as outlined below. Uses permitted after special approval are subject to the additional standards and procedures outlined under Article XX.

A. Review Procedures.

1. The Applicant shall file an application, along with supporting documents, and appropriate fee with the Township Clerk at least thirty (30) days prior to the next regularly scheduled Planning Commission Meeting.
2. The Clerk upon accepting the application will assign a township number and complete a Clerk's checklist for Site Plan Review.
3. The Clerk will provide two (2) complete sets of documents to the Zoning Administrator for review, at least twenty-five (25) days prior to the next regularly scheduled Planning Commission meeting.
4. The Zoning Administrator will complete a Site Plan Review Checklist noting required items that are provided or not provided and items not applicable to the project. Comments, as appropriate, will be included.
5. The Zoning Administrator prepares a Site Plan Review Report for the Planning Commission with a copy to applicant in a timely manner so that applicant can provide needed information as necessary.
6. The Zoning Administrator then submits a report and checklist to the Township Clerk/Planning Secretary.
7. If the application is for a use permitted after special approval, as classified within this Ordinance, the Township Clerk shall place the matter on the agenda of the next Planning Commission meeting. At that meeting, the Planning Commission shall schedule a public hearing on the request as outlined under Article XX, Section 20.02 of this Ordinance. If the application is for a use permitted by right, the Township Clerk/Planning Secretary will place the requested Site Plan Review Application on

the agenda of the next Planning Commission meeting and notify property owners within three hundred (300) feet of the site plan area. The notice will briefly describe the nature of the permitted use and the date, time and location of the Planning Commission's review. Notification of the review will be by regular mail no less than eight (8) and no more than fifteen (15) days prior to the meeting.

8. At the meeting, and subsequent to any required public hearings, the Planning Commission shall review the site plan in light of the standards contained in or referenced in this Article. The Planning Commission shall have the power to approve, deny, modify, table, or approve with conditions all site plans submitted to it under this Ordinance.
9. The Planning Commission shall advise the applicant of its action in writing. A building permit shall not be issued until a site plan has been approved as required herein.

B. Review Standards.

The Planning Commission shall review each site plan according to the standards for site plan review as contained in Section 19.06 of this Article and any other applicable regulations of this Ordinance. In addition, the Planning Commission is empowered to seek the review and recommendation of appropriate county, state or federal agencies, the Township Engineer or Planner, or other professionals, consultants, or agencies as the Commission deems necessary to assist it in its review.

For uses classified as permitted after special approval, the additional standards applicable to such uses as outlined in this Ordinance shall also apply.

C. Approval.

Upon approval of a site plan, four (4) copies of the plan shall be signed and dated by the Chairperson of the Planning Commission. A copy of the minutes shall be returned to the applicant, one copy of the plan will be kept on file by the Planning Commission, one copy shall be submitted to the Township Engineer, one copy to the Zoning Administrator and one copy will be returned to the Township Clerk.

D. Effect of Approval.

Approval of a final site plan authorizes issuance of a certificate of zoning compliance and issuance of a building permit, provided all other requirements for a building permit have been met. In the case of uses without buildings or structures, approval of a final site plan authorizes issuance of a certificate of zoning compliance and issuance of a certificate of occupancy, provided all other requirements for such certificate have been met.

E. Expiration of Approval.

1. Approval of a final site plan shall expire and be of no effect unless a building permit shall have been issued within thirty (30) days of Engineering Review Approval.
2. Approval of a final site plan shall expire and be of no effect one hundred eighty (180) days following the date of approval unless construction has begun on the property and is diligently pursued to completion in conformance with the approved site plan.
3. Construction shall be completed within two (2) years of Engineering Review approval or approval will expire and be of no effect. The Building Official shall not issue a building permit on a site plan whose approval has expired. Expired site plans must be re-submitted to the Planning Commission for review.

Section 19.06. STANDARDS.

- A. General.** The Planning Commission shall review the site plan for compliance with the requirements of this Ordinance and conformance with the following general standards:
1. The applicant may legally apply for site plan review.
 2. All required information has been provided.
 3. The proposed development conforms to all regulations of the zoning district in which it is located.
 4. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property, and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
 5. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications, which result in maximum harmony with adjacent areas.
 6. Natural resources will be preserved and protected to the maximum feasible extent and organic, wet, or other soils which are not suitable for development will be undisturbed or will be modified in an acceptable manner.
 7. The proposed development will not cause soil erosion or sedimentation problems.
 8. The drainage plan for the proposed development is adequate to handle anticipated storm water runoff and will not cause undue runoff onto neighboring property or overloading of watercourses in the area.
 9. The proposed development properly respects floodways and floodplains on or in the vicinity of the subject property.

10. The plan meets the specifications of the Elba Township and/or Lapeer County for water supply, sewage disposal or treatment, storm drainage, and other public or private utilities as applicable.
11. With respect to vehicular and pedestrian circulation on the site, including walkways, interior drives, and parking, special attention shall be given to the location, number and spacing of access points; general interior circulation; separation of pedestrian and vehicular traffic; the avoidance of building comers next to access drives; and the arrangement of parking areas that are safe and convenient, and insofar as practicable, do not detract from the design of the proposed buildings and structures, neighboring properties and flow of traffic on adjacent streets.
12. All buildings or groups of buildings shall be so amended as to permit emergency vehicle access by some practical means as suggested by or agreed to by the Township Fire Department.
13. The site plan shall provide reasonable, visual, and sound privacy for the project's occupants or proposed dwelling units. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of the project occupants.
14. All loading and unloading areas and the outside storage of materials, which face or are visible from residential districts or public thoroughfares, shall be screened by a vertical screen consisting of structural or plant materials. The outdoor storage of garbage and refuse shall be contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.
15. Outside lighting will not adversely affect adjacent or neighboring properties, or traffic on adjacent streets.
16. Phases of development shall be in logical sequence so that any prior phase will not depend upon a subsequent phase for adequate access, public utility services, drainage, or erosion control.

B. Standards for Environmental and Groundwater Protection.

1. Applicability.

The following standards shall apply to all businesses and facilities, including private and public facilities, which use, store or generate hazardous substances and polluting materials in quantities greater than twenty-five (25) gallons or two hundred twenty (220) pounds per month. Hazardous substances and polluting materials shall mean hazardous chemicals as defined by the Michigan Department of Public Health and the Michigan Department of Labor, flammable and combustible liquids as defined by the Michigan State Police Fire Marshal Division; critical materials, polluting materials,

and hazardous waste as defined by the Michigan Department of Environmental Quality (MDEQ); hazardous substances as defined by the U.S. Environmental Protection Agency (USEPA); and hazardous materials as defined by the U.S. or Michigan Department of Transportation (USDOT/MDOT).

- a. The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains, groundwater, and steep slopes.
- b. General purpose floor drains shall be allowed only if they are connected to a public sewer system, an on-site holding tank, or a system authorized through a MDEQ groundwater discharge permit.
- c. Sites at which hazardous substances and polluting materials are stored, used, or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
- d. State and federal agency requirements for storage, spill prevention, record keeping, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
- e. Secondary containment for aboveground areas where hazardous substances and polluting materials are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
- f. Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism.
- g. Secondary containment structures such as outbuildings, storage rooms, sheds, and pole barns shall not have floor drains which outlet to soils, groundwater, or nearby drains or rivers.
- h. Areas and facilities for loading/unloading of hazardous substances and polluting as areas where such materials are handled and used, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, wetlands, groundwater, or soils.
- i. Existing and new underground storage tanks shall be registered with the authorized state agency in accordance with requirements of the MDEQ.
- j. Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with requirements of the designated State regulatory agency. Leak detection, corrosion protection, spill prevention and overfill

protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review by government officials.

- k. Out-of-service, abandoned underground tanks shall be emptied and removed from the ground in accordance with the requirements of the designated State regulatory agency.
- l. Site plans shall take into consideration the location and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and the environment.
- m. Development shall not be allowed on or near contaminated areas of a site unless information from the MDEQ is available indicating that cleanup will proceed in a timely fashion.

Section 19.07. ISSUANCE OF BUILDING PERMIT.

The Building Official shall, upon receipt of notice of site plan approval from the Planning Commission and upon application by the applicant, issue a building permit provided all other applicable Township regulations have been met.

Section 19.08. AMENDMENT OF APPROVED SITE PLAN.

- A. Any person who has been granted site plan approval shall notify the Zoning Administrator and Elba Township Planning Commission of any proposed amendment to such approved plan. The Zoning Administrator and Planning Commission shall jointly determine whether the proposed amendment constitutes a minor or major amendment based on, but not necessarily limited to, the following:
 - 1. The addition of land to the legal description of the original site plan approval;
 - 2. The establishment of another use or uses;
 - 3. The addition of more sales or service area, or the addition of dwelling units; and
 - 4. An expansion or increase in intensity of use.
- B. A major amendment to an approved site plan shall comply with the same filing and review procedures of the original approval. A minor amendment may be approved by the Zoning Administrator provided there has first been concurrence by the Planning Commission that such amendment is minor.
- C. The Zoning Administrator and Planning Commission shall require that in the case of a minor amendment that a revised site plan drawing be submitted showing such minor changes for the purposes of public record. The applicant shall submit such amended plans to the Planning Commission for their information and file.

Section 19.09. MODIFICATION OF PLAN DURING CONSTRUCTION.

All site improvements shall conform to the approved site plan. It shall be the responsibility of the applicant to notify the building official and planning commission, in advance, of any changes proposed.

Section 19.10. AS-BUILT DRAWINGS.

- A. The applicant shall provide as-built drawings of all sanitary sewer, water, and storm sewer lines and all appurtenances which were installed on a site for which a site plan was approved. The drawings shall be submitted to the Township Clerk.
- B. The as-built drawings shall show, but shall not be limited to, such information as the exact size, type and location of pipes; location and size of manholes and catch basins; location and size of valves, fire hydrants, tees and crosses; depth and slopes of retention basins; and location and type of other utility installations. The drawings shall show plan and profile views of all sanitary and storm sewer lines and plan views of all water lines.
- C. The as-built drawings shall show all work as actually installed and as field verified by a professional engineer or a representative thereof. The drawings shall be identified as "As-Built Drawings" in the title block of each drawing and shall be signed and dated by the owner of the development or the owner's legal representative and shall bear the seal and signature of a registered professional engineer.

Section 19.11. PHASING OF DEVELOPMENT.

- A. The applicant may, after consultation with the Planning Commission, divide the proposed development into two or more phases. In such case, the site plan shall show the entire property involved and shall clearly indicate the location, size, and character of each phase. However, complete site plans for all phases of a project shall be provided at once.
- B. Each phase of a project shall stand on its own; no phase shall rely on the completion of any subsequent phases of the project for parking, utilities, landscaping, or any other element required by this Ordinance.

Section 19.12. PERFORMANCE GUARANTEE.

The Planning Commission shall require a performance bond, letter of credit, or certified check in an amount equal to the estimated cost of road, lighting, utility, sidewalk, landscaping, drainage, and other required improvements associated with the project. The estimated amount shall be determined by the applicant or his agent and confirmed by the Planning Commission. Such performance guarantee shall be deposited with the Township Clerk at the time of the issuance of the permit authorizing the activity or project to ensure faithful completion of the improvements indicated with the approved site plan. If not, the performance guarantee shall be forfeited. The

Township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Building Inspector. In cases where the provisions of this Article have not been met, the amount of the aforementioned performance guarantee shall be used by the Township to complete the required improvements and the balance, if any, shall be returned to the applicant.

Section 19.13. FEES.

Fees for the review of site plans and inspections are required by this Article shall be established and may be amended by resolution of the Township Board.

Section 19.14. VIOLATIONS.

An approved site plan shall become part of the record of approval, any subsequent action relating to a site in question shall be consistent with the approved site plan, unless the Planning Commission agrees to such changes as provided in this Article. Any violation of the provisions of this Article, including any improvement not in conformance with the approved final site plan, shall be deemed a violation of this Ordinance and shall be subject to all penalties therein (See Section 24.01).

ARTICLE XX

USES PERMITTED AFTER SPECIAL APPROVAL OF THE PLANNING COMMISSION

Section 20.01. APPLICATION.

For all uses permitted after special approval, a written application shall be submitted to the Planning Commission at least thirty (30) days prior to the meeting at which it is to be considered. Such application shall contain a description of the proposed use, a legal description and street location of the property on which the proposed use would be located, the signature of the property owner, the signature of the petitioner (if different from the property owner), and a scale drawing of the site. The scale drawing shall show existing and proposed building (including elevations and exterior materials), driveways, points of ingress and egress, parking areas, fencing, landscaping, signs, and road right-of-ways.

Section 20.02. HEARING.

Requests for uses permitted after special approval may be heard and decided at any regular or special meeting of the Planning Commission, provided the petitioner has presented all required information and proper notice has been given. Notices of public hearing on uses permitted after a special approval shall be sent to owners and occupants of property within a minimum of three hundred (300) feet from the property lines of the property which is the subject of the request for special approval. Notice shall be sent by regular mail and shall be sent to the property owners as shown on the latest tax assessment roll. A notice shall also be published once in a local

newspaper. All notices shall be given not less than eight (8) days or more than fifteen (15) days prior to the hearing.

Section 20.03. STANDARDS.

Requests for uses permitted after special approval shall be granted or denied based on the following standards:

- A. The location, size, and character of the proposed use shall be in harmony with and appropriate to the surrounding neighborhood.
- B. The proposed use shall not result in the creation of a hazardous traffic condition.
- C. The site layout, intensity of use, and time periods of use shall not be such as to create a nuisance due to dust, noise, smell, vibration, smoke, or lighting.
- D. All specific requirements of the zoning district where the proposed use would be located shall be complied with.

Section 20.04. DECISION.

The Planning Commission may deny, approve, or approve with conditions any request for a Use Permitted After Special Approval. The decision of the Planning Commission shall be incorporated in a statement containing the conclusions on which the decision is based and any conditions imposed. Any conditions imposed shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

Section 20.05. EXPIRATION.

Planning Commission permission for a Use Permitted After Special Approval shall expire one year from the date of the meeting at which permission is granted unless the premises has actually been occupied by the use permitted or unless construction has been undertaken to prepare the premises for the use permitted within the one year period.

**ARTICLE XXI
ZONING BOARD OF APPEALS**

Section 21.01. ESTABLISHMENT.

There is hereby established a Zoning Board of Appeals as authorized by Section 18 of the Township Rural Zoning Act, as amended. The Zoning Board of Appeals shall consist of five (5) members appointed by the Township Board. One (1) member shall also be a member of the Township Board. One (1) member shall also be a member of the Planning Commission. The remaining three (3) members shall be electors who are not employees or contractors of the Township. Each member shall be appointed for a term of three (3) years, except that the term of office of the members who are also members of the Township Board or Planning Commission shall terminate if their membership on the Township Board or Planning Commission terminates. The Zoning Board of Appeals shall elect a chairman, vice-chairman, and secretary. The Township Board member may not serve as chairman.

Section 21.02. APPEALS.

An appeal may be taken to the Zoning Board of Appeals by any person wishing to appeal any ordinance provision or any final decision by the Zoning Administrator or the Planning Commission. All appeals must be applied for in writing on forms provided by the Township. The Zoning Board of Appeals shall give notice of the hearing to the parties involved. The Zoning Board of Appeals shall also give notice to owners and occupants of property within a minimum of three hundred (300) feet from the property lines of the property, which is the subject of the appeal. Notice shall be by regular mail and shall be sent to the property owners as shown on the latest tax assessment roll.

Section 21.03. POWERS.

The Zoning Board of Appeals shall have the power to vary or modify any ordinance provision whenever there are practical difficulties or unnecessary hardships imposed on a property owner if the strict letter of the ordinance is carried out. The Zoning Board of Appeals shall decide appeals in such a manner that the spirit of the ordinance is observed, public safety secured, and substantial justice done.

Section 21.04. DECISIONS.

The Zoning Board of Appeals may require the appellant to provide such additional information as is necessary to make a decision. In making a decision, the Zoning Board of Appeals may impose such conditions as it may deem necessary to comply with the spirit and purpose of the Zoning Ordinance. No variance may be granted or decision overruled unless at least three members vote in favor thereof. Any variance shall expire one year from the date it is granted unless a building permit has been acquired, construction undertaken, or other required action taken pursuant to the variance. The Zoning Board of Appeals shall state the grounds of each

decision. Any conditions imposed by the Zoning Board of Appeals shall meet the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B. Be related to the valid exercise of the police power, and purposes, which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

ARTICLE XXII AMENDMENTS

The Township Board may, after a public hearing by the Township Planning Commission, amend the regulations or the district boundaries of this Ordinance pursuant to the authority and according to the procedures set forth in Act 184 of the Public Acts of 1943, as amended. Proposed amendments to the regulations or district boundaries of the Ordinance may be initiated by the Township Planning Commission, Township Board, or an individual petitioner. Whenever an individual petitioner requests a zoning amendment, he shall be the fee owner of the premises concerned or else have the fee owner also subscribed to his petition, and shall submit a petition for rezoning to the Township Clerk. Any applicant desiring to have any change made in this Ordinance shall, with his petition for such change, deposit a fee as established by the Township Board with the Township at the time that the petition is filed to cover the publication and other miscellaneous costs of said change.

ARTICLE XXIII REPEAL OR PRIOR ORDINANCES

Section 23.01. The former Zoning Ordinance for the Township of Elba (Zoning Ordinance No. 100 effective August 22, 1983) and all amendments thereto, are hereby repealed. All other ordinances and parts of ordinance in conflict with this Ordinance to the extent of such conflict are hereby repealed.

**ARTICLE XXIV
VIOLATIONS**

Section 24.01. PENALTY.

Any person, persons, firm, or corporation, or anyone acting in behalf of said person, persons, firm or corporation, who shall violate any of the provisions of this Ordinance, or who shall fail to comply with any of the regulatory measures conditions of the Zoning Board of Appeals, or the Township Board, adopted pursuant hereto, shall upon conviction thereof be subject to a fine of not more than Five Hundred (\$500.00) Dollars and court costs, or by imprisonment in the County Jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment. Each day such violation continues shall be deemed a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance.

Section 24.02. NUSIANCE PER SE.

Any building or structure which is used, erected, altered, razed, or converted or any use of the premises which is begun or changed subsequent to the passage of this Ordinance and in violation of any provision of this Ordinance, is hereby declared to be a nuisance per se.

**ARTICLE XXV
SEVERABILITY**

This Ordinance and the various articles, sections, paragraphs, sentences, and clauses thereof, are hereby declared to be severable. If any article, section, paragraph, sentence, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby.

**ARTICLE XXVI
ENACTMENT**

Section 26.01. ORDINANCE ENACTED.

The provisions of this Ordinance are hereby enacted and declared to be immediately necessary for the preservation of the public health, safety, and welfare of the people of the Township of Elba, Lapeer County, Michigan.

Section 26.02. EFFECTIVE DATE.

This Ordinance is therefore ordered to be given immediate effect as of the date of its passage by the Township Board, pursuant to Section 11 of Act 184, Michigan Public Acts of 1943, as amended.

Section 26.03. CERTIFICATION.

I, Melanie Sutter-Taylor, Elba Township Clerk, do hereby certify that this document is a true copy of that Ordinance No. 200 duly adopted by the Elba Township Board, at a regular meeting held on the 10th day of March, 2003. I further certify that a notice of adoption of this Ordinance was duly published in the Lapeer County Press on the 16th day of March, 2003, becoming effective as of March 23, 2003, which is seven (7) days after publication.

Signed:


Elba Township Clerk

**ARTICLE XXVII
OPEN SPACE COMMUNITIES
AMENDMENT**

Section 27.01 Statement of Intent

The purpose of this Section of the Zoning Ordinance is to allow and encourage alternative subdivision designs, in land zoned for residential development, which preserve Elba Township's character and environmentally sensitive elements, while providing housing communities that are desired by the community and the general public.

The regulations for farmland preservation will follow those established by the County of Lapeer. They are intended to preserve lands suitable for agricultural uses in the Township and manage growth to minimize the encroachment of residential, commercial and industrial uses into areas valued for agricultural purposes.

Open Space Communities shall promote the following Master Plan objectives within the Township:

- Maintain rural character by protecting natural features, scenic vistas, agricultural heritage and quietude wherever possible.

- **Maintain an image of Open Space by directing development away from public roadways.**
- **Preserve open space by discouraging the formation of flag lots or irregular shaped land divisions.**
- **Preserve natural resources by developing review tools that encourage approaches to land development that take into account the process of site plan design.**
- **Preserve agriculture and farming by limiting the amount of land used for housing and buffering agricultural uses from residential uses appropriately.**
- **Achieve a balance between farming, open space and residential growth.**

Section 27.02 Site Criteria

1. Location of Open Space Communities

An open space community may be located in land zoned for residential development if all of the following apply:

The minimum size of open space community developments shall be ten (10) acres of contiguous land.

- (a) The land is zoned at a density equivalent to 2 or fewer dwelling units per acre, or, if the land is served by a public sewer system, 3 or fewer dwelling units per acre;**
- (b) A percentage of the land area, but not less than 50%, will remain perpetually in an "undeveloped state" by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, as prescribed by the Elba Township Zoning Ordinance. For purposes of this provision, "undeveloped state" means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; 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, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.**
- (c) The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the option provided by this subsection would also depend upon such an extension;**
- (d) The option provided pursuant to this section has not previously been exercised with respect to that land.**
- (e) The development of land pursuant to this ordinance is subject to other applicable ordinances, laws, and rules, including rules relating to**

suitability of ground water for on-site water supply for land not served by public water and rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.

2. Access

The open space community shall have direct access to an approved public roadway.

Section 27.03 Open Space Amenities/Preservation of Natural Amenities

Sites shall preserve a significant quantity of the following:

- **Organic Amenities-** Views and vistas, mature woodlands wetlands or lowland areas, prairie, bodies of water (such as ponds, streams, natural drainage ways). Wildlife habitat or corridors and significant size trees (six to eight inches or more in diameter, measured four (4) feet above the grade).
- **Non-organic Amenities-** Farm buildings (viable for restoration and/or preservation), fence lines (stone or wood), buildings or foundations of historical value.
- **Provisions for Recreational Facilities-** The submittal should include both passive and/or active recreation areas for residents within the open space community. Passive recreation areas shall include areas such as pathway systems, common green areas of a substantial size, and open/preserve natural amenity areas, or other areas or uses consistent in nature. Active recreation areas shall include areas such as children's play sets, sports fields (i.e., football, soccer, baseball), and other fitness areas that are consistent in nature.
- **Creation of Natural Amenities-** these areas are to be constructed in a manner that replicates a natural setting. A portion of these areas should remain "un-manicured", allowing natural growth and processes to occur. These areas can take a number of forms, such as woodlands (interior street tree plantings shall not count for this requirement), wildflower or grass meadows, constructed wetlands (preferably extension to an existing), or other areas consistent in nature.
- **Preservation of Agriculture-** Land uses, such as orchards, horse stables, active farms, or other similar agriculture uses, shall be preserved where feasible or viable. A buffer shall be maintained between the agricultural use and the residential units.

Section 27.04. Submission Requirements.

1. Yield Plan.

A "yield Plan" shall be prepared by the developer showing a feasible development under the requirements of the specific zoning district in which it is located and the requirements of any and all State, County and Township regulations. This will serve as a benchmark indicating the maximum number of lots to be allowed for the proposed project. All lots, roads and other improvements shall be designed so that they do not adversely impact wetlands, floodplains or drainage ways, as regulated by Federal, State, County or local agencies.

It must be determined by the Planning Commission that this yield plan or conventional subdivision is able to be physically constructed and meets all current regulations, should the Open Space Community be denied or not constructed. If there is a question regarding water, septic, wetlands or floodplains, the Planning Commission may request validation from the proper regulatory authority. If it is determined, through these responses, that the number of lots proposed is unfeasible, the yield plan shall be revised and resubmitted, minus that number of lots. Detailed engineering is not required at this stage.

The Planning Commission may also waive the submission of a yield plan if it is determined that the number of housing units proposed for open space developments is, without question, well below what would be feasible for the site. Such waivers must be detailed in writing and recorded as part of the motion in the minutes of the Planning Commission. Waivers may only be granted if it is determined by the Planning Commission that the proposed open space design will be a major benefit to the Township and achieve all the goals and objectives set forth in the:

- Elba Township Master Plan
- Elba Township Open Space Community Zoning Ordinance

2. Site Analysis

A Site Analysis Plan shall be submitted, showing the following site features:

- Wetlands, as confirmed by the Elba Township Wetland Official
- Water areas, such as streams and ponds
- Woodlands and farmlands
- Soils and topography
- Drainage patterns and County drains
- Historic and cultural features
- Wildlife habitat corridors
- View sheds and view corridors
- Existing easements of record
- Existing and proposed rights-of-way
- Existing infrastructure
- Adjacent development within one hundred (100) feet

3. Conservation Areas Plan

The combination of the site analysis elements notes above shall be used to outline the primary and secondary conservation areas. The primary conservation areas include areas where no development is to occur. The secondary conservation areas are areas where development can occur, but special care must be taken to minimize impacts.

- **Primary Conservation Areas-** floodplains, regulated wetlands, drainage ways, easements, 15-foot exterior road buffer, or other exceptional elements.
- **Secondary Conservation areas-** farmlands, woodlands suspected or marginal wetlands, tree lines, soils sensitive to development, soils prone to flooding, aesthetic views, etc.
- **Buildable Areas-** areas that are not dedicated to primary conservation areas may be treated as buildable area. Housing sites should be located so as to compliment the conservation areas.

4. Open Space Plan

An Open Space Plan, with the proposed housing layout shall not exceed the maximum number of housing units determined by the yield plan. The roads shall also be shown to provide interior access to all homes. At this stage, the drawings need not be Engineered, only drawn to scale.

Section 27.05. The Review Process

1. The Planning Commission shall determine that the yield plan submitted meets all applicable regulations of the State and Township (Ord. # 200).
2. The Planning Commission shall confirm the accuracy and feasibility of the Open Space Plan noted above and determine whether the objectives of this ordinance are met.
3. Planning Commission determination.
 - a. Upon approval, the proprietor may undertake the process for Subdivision or Site Condominium approval, or Parcel Division per State Law and Township Ordinance.
 - b. Upon denial, the proprietor may either submit the yield plan for approval under the Subdivision or Site Condominium review process, or submit a new application for an Open Space Community.

Section 27.06. Site Design Requirements

1. Unless otherwise provided for in this Ordinance, all other applicable Zoning Ordinance provisions shall apply.
2. **Minimum Lot Size-** In no case shall the lot sizes be smaller than the minimum lot size allowable in Ord. 200 provided that the State and County Health Departments' regulations or standards are met.
3. **Minimum Yard Setbacks-** In no case shall be less than provided by Ord. 200.
4. **Development Layout-**The development is encouraged to include roads that are single loaded, referring to homes along only one side of the street. This type of development will allow for a greater number of views and vistas onto the Open Space of Farmland.
5. **Minimum Exterior Road Buffer-** The developer shall preserve a minimum of a 150-foot buffer from the proposed right-of-way along any County Road or State Highway.
6. **Minimum Open Space-** A minimum of sixty (60%) percent of the gross land area shall be set aside for common Open Space areas.
7. **Open Space shall be defined as follows-** All area within the Open Space development, not individually owned or part of a limited common area, which are designed and intended to preserve environmental features for the common use and enjoyment of the residents of the entire development for any of the following uses: recreation, forestry and/or Open Space conservation, community gardens, or agricultural uses. The Open Space requirements shall not be met by land uses within setbacks for each specific lot, or land area dedicated as limited commons.
8. **Maximum Amount of Unbuildable Land Used as Open Space-** A maximum of ten (10%) of the total Open Space allotment may be unbuildable land. Unbuildable land will include land that is regulated by Michigan Department of Environmental Quality, or the Environmental Protection Agency, Army Corps of Engineers, or any other regulatory body which has jurisdiction over land which cannot be used for the construction of housing.
9. **Houses Abutting the Open Space-** A minimum of fifty (50%) percent of all dwelling units within the development shall abut or overlook the dedicated Open Space.
10. **Access to Open Space-** Access points or paths shall be provided to afford access to open space and common areas. These access points shall link the open space to the roadway, sidewalks, or the remainder of the development.

11. General Lot Character- Flag lots or panhandle lots shall not be permitted with an Open Space Community.

12. Natural Area- An undisturbed greenbelt shall be required around any natural features or farmland preserved with the common Open Space areas.

13. Pedestrian Circulation- Adequate pedestrian circulation shall be provided by the applicant for on-site circulation. Adequate access shall be provided to all Open Space/recreational spaces from the residential areas. Natural paths or bike paths" are encouraged within the development.

Section 27.07. Roadways.

Roadways Widths- Roadways surface and base standards shall conform to the standards specified in the Engineering Standards Ordinance of Elba Township or as amended.

Section 27.08. Dedication of Open Space

The dedicated Open Space shall be set-aside in the irrevocable conveyance that is acceptable to the Township Attorney and approved by the Township Board, such as the following:

1. A Conservation Easement, as established by the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L. 399.251).
2. Master Deed, as established by the State of Michigan Condominium Act, Act 59 Public Act of 1978, as amended.
3. Distributed, gift or sale of the development rights to all property owners within the Open Space Community.

The above conveyance shall indicate all proposed uses of the dedicated Open Space, which shall also be shown on the approved Open Space or farmland Community. The Township Attorney shall review the conveyance and assure the Township that such lands shall remain as Open Space for perpetuity.

The conveyance shall also detail a maintenance schedule and funding for operation, maintenance and insurances for all common areas, facilities, projects and programs of the Open Space Community, and shall include methods of payment and collection.

Section 27.09. Subdivision Plat, Site Condominiums, or Lot Division.

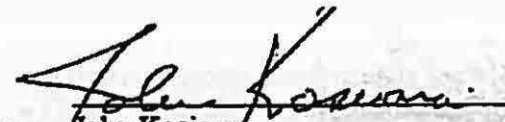
The petitioner must follow the regulations and procedures set forth in the Elba Township Zoning Ordinance, Site Condominiums Act, Land Division Act, and all


applicable standards of the Elba Township, Engineering Standards Ordinance and the Subdivision Plat Act.

Section 27.10. Enactment

The provisions of this Ordinance are hereby enacted and declared to be immediately necessary for the preservation of the public health, safety, and welfare of the people of the Township of Elba, Lapeer County, Michigan.

This Ordinance Amendment is therefore ordered to be given immediate effect as of the date of its passage by the Township Board, pursuant to Section 11 of PA 184, Michigan Public Acts of 1943, as amended.


John Kosiara
Elba Township Supervisor


Melanie M. Sutter-Taylor
Elba Township Clerk

Section 27.11. Certification.

I, Melanie Sutter-Taylor, Elba Township Clerk, do hereby certify that this document is a true copy of that Ordinance Amendment, Articles XXVII, Open Space Communities, duly adopted by the Elba Township Board, at a regular meeting held on the 14th day of June, 2004. I further certify that a notice of adoption of this Ordinance Amendment was duly published in the Lapeer County Press on the 16th day of June 2004, becoming effective as of June 23, 2004, which is seven (7) days after publication.

Signed:


Melanie M. Sutter-Taylor
Elba Township Clerk

APPENDIX

DEFINITIONS CONSTRUCTION OF LANGUAGE

The following rules of construction apply to the text of this Ordinance.

1. The particular shall control the general.
2. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
4. Words used in the present tense shall include the future; and words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
5. A "building" or "structure" includes any part thereof.
6. The term "lot" includes any site or parcel comprising an individual piece of land, whether created by platting, splitting, condominium or other legal process.
7. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
8. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
9. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunctions "and," "or," "either...or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply but not in combination.
10. Terms not herein defined shall have the meaning customarily assigned to them.

DEFINITIONS.

ABANDONMENT (ABANDON): To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

ABUTTING: Having a common border with, or being separated from such a common border by a right-of-way, alley or easement.

ACCESSORY BUILDING (ACCESSORY STRUCTURE): A subordinate building or structure detached from, but located on the same lot as the principal structure, the use of which is clearly incidental and accessory to that of the principal structure. For measurement of area proposed, and attached garage or deck shall be considered an accessory structure.

ACCESSORY USE, OR ACCESSORY: A use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same lot as the principal use to which it is related.

When "accessory" is used in this text, it shall have the same meaning as "accessory use."

An "accessory use" includes, but is not limited to the following:

- a. Residential accommodations for servants and/or caretakers.
- b. Swimming pools for the use of the occupants or a residence or their guests.
- c. Domestic or agricultural storage in a barn, shed, tool room or similar accessory building or other structure.
- d. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
- e. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
- f. Accessory off-street parking spaces, upon or enclosed, subject to the accessory off-street parking regulations for the district in which the lot is located.
- g. Uses clearly incidental to a main use, such as but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
- h. Accessory off-street loading, subject to the off-street loading regulations for the district in which the lot is located.

- i. Accessory signs, subject to the sign regulations for the district in which the lot is located.

(NOTE: The storage of boats, vehicles, recreation equipment in excess of size or number of those commonly associated with residential uses in the district will not be considered accessory regardless of whether or not such storage is located in a building.)

AGRICULTURAL USE: Farms and general farming, including horticulture, floricultural, dairying, livestock and poultry raising, farm forestry, sod farming, greenhouses and tree and shrub nurseries where only stock raised on the premises may be sold at retail, and other similar enterprises or uses; and no agricultural use shall be operated for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals, except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one (1) year immediately prior thereto and for the use and consumption of persons residing on the premises.

AIRPORT: Any area of land or water designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

ALLEY: Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation and not more than twenty (20) feet wide.

ALTERATIONS: Any change, addition, or modification in construction, type of occupancy or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."

ANTENNA (See also Antenna, Satellite Dish): A wire or set of wires used in transmitting and receiving electromagnetic waves and including the supporting structure including, but not limited to, amateur radio antennas, television antennas and satellite receiving dishes.

ANTENNA, SATELLITE DISH: A device incorporating a reflective surface that is solid, open mesh or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

APARTMENT: A room or suite of rooms used as a dwelling for one family which does its own cooking and contains sanitary facilities therein.

ARCHITECTURAL (FEATURES): Architectural features of a building shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

AUTOMOBILE GAS AND SERVICE STATION: A building or structure designed or used for the retail sale or supply of fuels (stored only in underground tanks), lubricants, air, water and

other operating commodities for motor vehicles, aircraft or boats, and including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space or facilities for the storage, minor repair or servicing, but not including bumping, painting, refinishing, large parts installation where the primary use of the premises is such, or high speed washing thereof.

AUTOMOBILE REPAIR: General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service (such as body, frame or fender straightening and repair), overall painting, and vehicle rustproofing.

BAR: Any premises wherein alcoholic beverages are sold at retail for consumption on the premises and minors are excluded there from by law. It shall not mean a premises wherein such beverages are sold in conjunction with the sale of food for consumption on the premises and the sale of said beverages comprises less than twenty-five (25%) percent of the gross receipts.

BASEMENT (CELLAR): A basement is that portion of a building partly below grade but so located that the average vertical distance from the grade to the floor is greater than the average vertical distance from the grade to the ceiling; provided, however, that if the average vertical distance from the grade to the ceiling is five (5) feet or more, such areas shall be considered as a story.

BERM: An earthen mound graded, shaped and improved with landscaping in such a fashion as to be utilized for screening purposes.

BILLBOARD: See Sign Definitions (Outdoor Advertising).

BOARD OF APPEALS: The duly appointed Board of Zoning Appeals for the Township of Elba.

BUILDABLE AREA: The buildable area of a site or lot is the space remaining after the minimum space requirements of this Ordinance have been complied with.

BUILDING: A structure, either temporary or permanent, having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or chattels in a building. This shall include tents, awnings or vehicles situated on private property and use for purposes of a building. When any portion thereof is completely separated from every other part thereof by division walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.

BUILDING, MAIN OR PRINCIPAL: A building in which is conducted the principal use of the lot on which it is situated.

BUILDING, MULTIPLE: A building, or portion thereof, used or designed as residence for three (3) or more families living independently of each other and doing their own cooking in said building. This definition includes three-family building, four-family building, and apartment building, but does not include trailer camps or mobile home parks.

BUILDING OFFICIAL: The Building Official of the Township or his authorized representative.

BUILDING PERMITS: A building permit is the written authority issued by the Building Official permitting the construction, removal, moving, alteration or use of a building in conformity with the provisions of this Ordinance.

BUILDING, SINGLE-FAMILY: A detached building designed or occupied exclusively by one (1) family.

BUILDING, TEMPORARY: A structure without permanent foundation erected or devoted to the development of, or in connection with, the principal site used for a limited period of time.

BUILDING, TWO-FAMILY: A detached building designed for or occupied exclusively by two (2) families living independently of each other, such as a duplex dwelling unit.

CANAL: An artificially constructed or excavated channel used for navigation purposes or boat docks and as a means of ingress or egress to other bodies of water or for building lots on the banks thereof shall be known as a canal.

CAR WASH: An area of land and/or structure with machine- or hand-operated facilities used principally for the cleaning and washing of motor vehicles.

CAR WASH, AUTOMATIC: A building that provides facilities for washing and cleaning motor vehicles, which uses production line methods with a conveyor, blower or other mechanical devices, and which may employ some hand labor for polishing or waxing.

CARPORT: A partially open structure for sheltering vehicles erected in conformity with the site requirements for garages.

CEMETERY: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries, when operated in conjunction with and within the boundaries of such cemetery.

CHURCH OR PLACE OF RELIGIOUS WORSHIP: An institution that people regularly attend to participate in or hold religious services, meetings and other activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held. The word "church" shall not include or mean an undertaker's chapel or funeral building.

CLINIC: A place for the care, diagnosis and treatment of sick or injured persons and those in need of medical or minor surgical attention. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to its operation or to the service of its patients, but may not include facilities for in-patient care or major surgery.

CLUB, LODGE OR FRATERNITY: An organization of persons for special purposes or for the promulgation of agriculture, sports, arts, science, literature, politics or the like, but not for profit.

COMMERCIAL, GENERAL: General commercial district is to provide area for those commercial businesses and services that have large land needs and other types of business that are not generally compatible with small scale retail shopping and service establishments or larger scale shopping centers. Uses such as car and R.V. dealers, auto repair shops, lumber yards and similar uses are included in this zoning category.

COMMERCIAL, NEIGHBORHOOD: Commercial development within this category is to serve the convenience shopping needs of Township residents and to a lesser extent, the needs of through vehicular traffic. Such convenience retail uses would include a pharmacy, convenience store, ice cream shop, service station, banks, etc. Commercial uses that generate higher traffic volumes and attract people from beyond the local area should not be located within this category. The primary area designated for neighborhood commercial is the village of Elba and areas north and south of I-69 on Lake Nepessing Road.

COMMERCIAL, HIGHWAY: This land use category is intended for office, retail, and service uses, which cater to Township residents as well as the motoring public. These commercial uses are envisioned to occur on a larger scale than neighborhood commercial uses and will have a highway orientation in terms of visibility, access and traffic generation. Shopping centers, motels, office buildings and mixtures of retail and service enterprises planned as complexes are the types of development to be encouraged in these areas. Areas near both I-69 interchanges have been given this designation.

COMMERCIAL USE: An occupation, employment or enterprise dealing with the public that is carried on for profit by the owner, lessee or licensee.

COMMISSION: The word "Commission" shall mean the Elba Township Planning Commission.

COMMUNITY CENTER: A place, structure, area or other facility used for and providing religious, fraternal, social and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

CONDOMINIUM: An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a residential building, such as an apartment. A condominium may include, in addition, a separate interest in other portions of such real property.

CONDIUMIUM ACT: Michigan Public Act 59 of 1978, as amended.

CONDOMINIUM SUBDIVISION PLAN: The site plan illustrating the existing site feature and all proposed improvements pursuant to the requirements for the site plan review and

pursuant to the requirements for site plan review and pursuant to the requirements of Section 66 of the Condominium Act.

CONDOMINIUM UNIT: That portion of the condominium project designated and intended for separate ownership and use, as described in the Master Deed.

CONDOMINIUM MASTER DEED: The condominium document recording the condominium project as approved by the Township, 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 site.

CONSERVATION EASEMENT: An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominately in their natural, scenic, open or wooded condition, retaining such areas as suitable habitat for fish, plants or wildlife, or maintaining existing land uses.

CONVALESCENT OR NURSING HOME: A convalescent home or nursing home is a home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, wherein two (2) or more persons are cared for. Said home shall conform and qualify for license under State law, even though State law has different size regulations.

COURT: An open space on the same lot with a building or group of buildings and which is bounded on two (2) or more sides by such building or buildings. A court shall be unoccupied, except as otherwise herein provided.

DAY-CARE: A private residence where care, protection and supervision are provided, for a fee, to at least seven (7) and no more than twelve (12) children, including children of the adult provider.

DENSITY: The number of families residing on, or dwelling units developed on, an acre of land.

DEVELOPMENT: The division of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining excavation, fill or land disturbance; and any use or extension of the use of land.

DISTRICT (Zoning District): A portion of Elba Township within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

DRIVE-IN ESTABLISHMENT: A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle (i.e., restaurants, cleaners, banks, theaters).

DWELLING UNIT: A dwelling unit is any house or building, or portion thereof, having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one (1)

family, either permanently or transiently, but in no case shall a travel trailer, automobile chassis, tent or portable building be considered a dwelling unit.

EASEMENT: The right of a person, government agency or public utility company to use public or private land owned by another for a specific purpose.

ERECTED: The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage and the like shall be considered a part of erecting.

EXCAVATION (EXCAVATING): Any breaking of ground, except common household gardening and ground care.

FAÇADE: The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

FAMILY: One or more persons occupying a dwelling unit and living as a single, non-profit housekeeping unit; provided that a group of four (4) or more persons who are not within the second degree of kinship shall not be deemed to constitute a family.

Notwithstanding the definition of the preceding paragraph, a family shall be deemed to include four or more persons not within the second degree of kinship occupying a dwelling unit and living as a single non-profit housekeeping unit, if said occupants are handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988. Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in the first paragraph of this definition.

FARM: The term "farm" shall include the carrying on of any agricultural activity or the raising of livestock as a source of income. All of the contiguous neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner, operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; provided, however, that land to be considered a farm hereunder shall include a continuous parcel of five (5) acres or more in area; provided, further, farms may be considered as including tree farms, orchards, chicken hatcheries, poultry farms, apiaries and sod farms.

FARM BUILDINGS: Any building or structure, other than a dwelling, moved upon, maintained, used or built on a farm which is essential and customarily used on farms of that type for the pursuit of their agricultural activities.

FENCE: Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

FILLING: Shall mean the depositing or dumping of any matter onto or into the ground, except common household gardening.

FLOODPLAIN: Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one (1) foot at any point.

FLOOR AREA, GROSS: Is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings.

FOOT CANDLE: The unit of illumination when the foot is taken as the unit of length. It is the illumination on a surface one (1) square foot in area on which there is a uniformly distributed flux of one (1) lumen, or the illumination produced on a surface all points of which are at a distance of one (1) foot from a directionally uniform point source of one (1) candela.

FREEWAY: A divided highway of not less than two (2) lanes in each direction to which owners or occupants of abutting property or the public do not have a right of ingress or egress to, from or across the highway, except at points determined by, or as otherwise provided by, the authorities responsible therefore.

FRONTAGE: The front or frontage is that side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side line of a corner lot.

FUNERAL HOME: A building, or part thereof, used for human funeral services. Such building may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns and other related funeral supplies; and d) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

FUR-BEARING ANIMAL: An animal raised for the principle purpose of generating revenue from the sale of its fur or hide.

GARAGE, AUTOMOBILE REPAIR: See Automobile Repair.

GARAGE, PRIVATE: An accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned and used by the occupants of the building to which it is accessory, with no facilities for mechanical service or repair of a commercial or public nature, having capacity for not more than three (3) automobiles.

GARAGE, SERVICE: Any building or premises, other than a gasoline filling station, used for housing or care of more than three (3) automobiles, or where any such automobiles are equipped for operation, repaired or kept for remuneration, hire or sale.

GARBAGE: Garbage shall mean all wastes, animal, fish, fowl or vegetable matter incident to the preparation, use and storage of food for human consumption, spoiled food, dead animals, animal manure and fowl manures. See junk.

GRADE: The ground elevation established for the purpose of regulating the number of stories and height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

GREENBELT: A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this Ordinance.

HAZARDOUS SUBSTANCES: Any substance or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

HOME OCCUPATION: An activity carried on by an occupant of a dwelling unit as a secondary use which is clearly incidental to the use of the dwelling unit for residential purposes.

HOSPITAL: A building, structure or institution in which sick or injured persons are given medical or surgical treatment and operating under license by the Health Department and the State of Michigan, and is used for primarily in-patient services, and including such related facilities as laboratories, out-patient departments, central service facilities and staff offices.

HOTEL: A series of attached, semi-detached or detached rental units which provide overnight lodging and are offered to the public for compensation. Hotels may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.

HIGHWAY: A highway officially designated as a part of the national system of interstate and defense highways by the department and approved by the appropriate authority of the Federal government.

IMPERVIOUS SURFACE: A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes surfaces such as compacted sand, lime rock or clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots and other similar structures.

INDUSTRIAL PARK: A planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open space.

JUNK: For the purpose of this Ordinance, the term "junk" shall mean any motor vehicles, machinery, appliances, product, merchandise with parts missing or scrap metals or other scrap

materials that are damaged, deteriorated, or are in a condition which cannot be used for the purpose that the product was manufactured.

JUNKYARD: An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A "junkyard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

KENNEL: Any lot or premises on which three (3) or more dogs, cats or other household pets over six (6) weeks old are either permanently or temporarily boarded or bred or sold.

LAKE: Any body of water which is not private and which is accessible to the public via publicly-owned lands, waters or highways, contiguous thereto or via the bed of a stream and which may be used for navigation, fishing, hunting or other lawful purpose and reasonably capable of supporting a beneficial public interest.

LAKE, PRIVATE: Any body of water, other than a public lake, which is owned by one (1) person, group of persons, partnership or corporation for use regulated by the owners only.

LANDFILL: The orderly deposit of earthen materials for the purpose of elevating the grade to develop the site for specific use.

LOADING SPACE: An off-street space on the same lot with a building or group of buildings for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

LOT: A parcel of land occupied or intended to be occupied by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records. Each such parcel shall also have its front lot line abutting a public street or approved private road.

LOT AREA: The total horizontal area within the lot lines of a lot.

LOT DEPTH: The mean horizontal distance measured from the front street center line to the rear lot line.

LOT LINES: The lines bounding a lot as defined herein:

- a. **Front Lot Line:** Is that lot line separating said lot from the street. In the case of a through-lot, is the line separating said lot from either street.
- b. **Rear Lot Line:** Is that lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not

less than ten (10) feet long, lying farthest from the front lot line and wholly within the lot.

- c. **Side Lot Line:** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

LOT OF RECORD: A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by Township or County Officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

LOT, NONCONFORMING: A lot or parcel of land that has less than the required minimum area or width as established by the zone in which it is located, and provided that such lot or parcel was of record and a legally created lot on the effective date of this Ordinance.

LOT WIDTH: The horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines if the side property lines are not parallel, the width of the lot shall be the length of a line at right angles to the axis of the lot at a distance equal to the front setback required for the district in which the lot is located. The axis of a lot shall be a line joining the midpoint of the front and rear property lines.

MANUFACTURED (MOBILE) HOME: 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 recreation vehicle. A mobile home shall not lose its character as such when placed on a permanent foundation.

MANUFACTURED (MOBILE) HOME COMMUNITY: A parcel or tract of land under the control of a person upon which two (2) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, 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 and licensed pursuant to the provisions of Act 419, Public Acts of 1976, as amended.

MARINA: A boat basin with facilities for berthing and securing all types of recreational craft, as well as providing supplies, provisions and service facilities.

MASTER PLAN: The Township's Basic Land Use Plan, including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and all physical development of the Municipality, and includes any unit or part of such plan and any amendment to such plan or parts thereof. Such plan shall be adopted by the Planning Commission.

MOTEL: A series of attached, semi-detached or detached rental units containing a bedroom, bathroom and closet space. Units shall provide for overnight lodging and are offered to the public for compensation and shall cater primarily to the public traveling by motor vehicle.

NONCONFORMING BUILDING: A building or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto and that does not conform to the provisions of this Ordinance in the district in which it is located.

NONCONFORMING USE: A use which lawfully occupied a building or land at the effective date of this Ordinance, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

NUISANCE: The word "nuisance" shall be held to embrace public nuisance as known at common law or in equity jurisprudence; and whatever is dangerous to human life or detrimental to health; and any dwelling or building which is overcrowded with occupants or is not provided with adequate ingress or egress to or from the same, or is not sufficiently supported, ventilated, sewered, drained, cleaned or lighted in reference to its intended or actual use; and whatever renders the air or human food or drink unwholesome, are also severally, in contemplation of this Ordinance, nuisances and all such nuisances are hereby declared illegal.

NURSERY, PLANT MATERIALS: A space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for wholesale or retail sale on the premises, including products used for gardening or landscaping. The definition of nursery within the meaning of this Ordinance does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

NURSERY SCHOOL, DAY SCHOOL, CHILD CENTER: An establishment wherein seven (7) or more children, not related by bonds of consanguinity or fostership to the family living on the premises, are for remuneration cared for. Such schools or centers need not have a resident family on the premises.

OCCUPIED: The word "occupied" includes arranged, designed, built, altered, converted to, rented or leased, or intended to be occupied.

OFF-STREET PARKING LOT: A facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than two (2) automobiles.

OUTDOOR STORAGE: The keeping, in an unroofed area, of any goods, junk material, merchandise or vehicles in the same place for more than twenty-four (24) hours.

PARCEL: A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

PARCEL OF RECORD: A parcel of record is an area of land described by a metes and bounds description and which is not necessarily a lot of record in a subdivision plat.

PARK: Any public or private improved land available for recreational, educational, cultural or aesthetic use, or scenic purposes.

PARKING SPACE: An area of definite length and width, exclusive of drives, aisles or entrances giving access thereto, and full accessibility for the storage or parking of permitted vehicles. Tandem parking stalls in single-family detached, single-family attached, and town home residential uses shall be considered to be fully accessible for the purpose of this definition.

PERFORMANCE GUARANTEE: Any security accepted by the Township in the form of cash, certified check, performance bond, surety bond or certificate of deposit endorsed to the Township, to ensure that all improvements, facilities or work required by this Ordinance will be completed in compliance with the Ordinance, regulations, and the approved plans and specifications of a development.

PERSON: Any natural person, firm, partnership, association or corporation; however, this definition does not include any governmental unit.

PLANNED UNIT DEVELOPMENT (PUD): A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

PLANNING COMMISSION: The duly appointed planning commission of Elba Township.

PRINCIPAL USE: The main use of land or structures, as distinguished from a secondary or accessory use.

PRIVATE DRIVE: A means of vehicle access serving one property or one dwelling.

PUBLIC ROAD: All public property reserved or dedicated for street traffic.

PUBLIC UTILITY: Any persons, firm, corporation, municipal department, board or commission duly authorized to furnish and furnishing, under Federal, State or municipal regulations, to the public, electricity, gas, sanitary sewers, steam, communications, telegraph, transportation or water services.

RECREATION VEHICLES:

- a. A "travel trailer" is a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "travel trailer" by the manufacturer.
- b. A "pick-up camper" is a structure designed primarily to be mounted on a pick-up or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.

- c. A "motorized home" is a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- d. A "folding tent trailer" is a plastic or canvas folding structure, mounted on wheels and designed for travel and vacation use.
- e. "Boats" and "boat trailers" shall include boats, floats and rafts, plus the normal equipment to transport the same on the highway.
- f. "Snowmobiles" and "all terrain vehicles," plus the normal equipment to transport the same on the highway.

RECREATIONAL VEHICLE (RV) PARK: A place utilized for camping purposes. Any lot of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

REPAIRS: The rebuilding or removal of a part of an existing building for the purpose of maintaining its original type and classification.

RESIDENTIAL ENTRANCE WAYS: Entrance way structures including, but not limited to, walls, columns, grates, lamps and poles, and any associated landscaping materials or improvements.

RESTAURANT: A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in non-disposable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

RESTAURANT, DRIVE-IN: An establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

RIGHT-OF-WAY: The right-of-way line shall be the line established by the Lapeer County Road Commission in their right-of-way requirements established for Elba Township or the Township's adopted Master Plan.

ROADSIDE STANDS: A roadside stand is a temporary or existing permanent building operated for the purpose of selling only produce raised or produced by the proprietor of the stand or his family on the premises, and its use shall not make into a commercial district land which would otherwise be an agricultural or residential district, nor shall its use be deemed an approved commercial activity.

RUBBISH: Means the miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter, such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals, or any similar or related combinations thereof.

SCREENING: The method by which a view of one site from another adjacent site is shielded, concealed or hidden. Screening techniques include fences, walls, hedges, berms or other features. Screening may include one or a combination of the following materials of sufficient mass to be opaque or that shall become opaque after twelve (12) months and which shall be maintained in an opaque condition: walls, berms or plantings.

SELF-SERVICE STORAGE FACILITY: A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors' supplies.

SETBACK: The minimum horizontal distance between the front of the building, excluding only steps, and the front center line.

SHOPPING CENTER: A group of three (3) or more commercial establishments built primarily for retailing the principal goods and services required by a household. These centers are built on sites readily accessible by automobile with common parking provided.

SIGN DEFINITIONS: For the purpose of this Ordinance, certain words, terms and phrases shall be defined as follows:

Accessory Sign: A sign, which is accessory to the principal use of the premises. A sign which relates to the business activity or service conducted on the premises upon which the sign is placed.

Advertising Sign: Shall be known as a non-accessory sign and shall relate to a business, use or service not carried on the premises upon which the sign is placed.

Area of Sign: The area within a continuous perimeter enclosing or making up a sign, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed; provided, however, any open space contained within the outer limits of the display face of a sign, or between any component, panel, strip or figure of any kind composing the display face shall be included in the computation of the area of the sign, whether such open space be enclosed or not by a frame or border. Where a sign consists solely of lettering or other sign elements mounted on a wall of a building without any distinguishing border, panel or background, only the area of a tightly drawn imaginary rectangle enclosing each such letter or other sign elements shall be treated as a single sign for the purposes of area computation. For double-faced signs, only one (1) display face shall be measured or counted in computing sign area or items of information where the sign faces are parallel or where the interior angle formed by the faces is sixty (60) degrees or less. If the two (2)

faces of a double-faced sign are of unequal area, the area of the signs shall be taken as the area of the larger face.

Awning Sign: A sign that is printed on, or otherwise affixed to, an awning.

Balloon Sign: One or more balloons, or any other air-filled or gas-filled object used as a sign or as a means of advertising or directing attention to any business or profession, or to a commodity or service sold, offered or manufactured, or to any entertainment.

Banner Sign: A sign or display constructed of paper, plastic or fabric of any kind, intended to be hung, either with or without frames.

Billboard: (See Sign Outdoor Advertising.)

Bulletin Board or Announcement Sign: A business sign of the following nature:

Existing church services.

Stating religious activities.

A directory of offices or activities for a building or group of buildings.

Business Sign: An accessory sign which relates to the business, activity or service conducted on the premises upon which the sign is placed.

Canopy Sign: A sign that is printed on or otherwise affixed to a canopy.

Construct or Erect: Shall mean to build, construct, attach, hang, place, suspend, or affix, and shall also include the painting of wall signs.

Directional Sign: A sign directing vehicular or pedestrian traffic to parking areas or loading area.

Facing or Surface: Shall mean the surface of the sign upon, against, or through which the message is displayed or illuminated on the sign. (See Area of a Sign.)

Festoon Sign: A sign where incandescent light bulbs, banners or pennants, or other such features are hung or strung overhead and are not an integral physical part of the building or structure they are intended to serve.

Flashing, Animated, or Moving Sign: A sign that intermittently reflects lights from either an artificial source or from the sun or signs which have movement of any illumination, such as intermittent, flashing, scintillating or varying intensity; or a sign that has any visible portions in motion, either constantly or at intervals, which motion may be caused either by artificial or natural sources.

Floodlight Illumination: Shall mean lighting provided by a floodlight or spotlight.

Freestanding Sign: A sign attached to the ground by poles or braces and not attached to any building.

Ground (Monument) Sign: A freestanding sign which is permanently fastened to the ground by upright(s), brace(s) or similar object(s), and which is not attached to a building or structure. Any freestanding sign with less than ten (10) feet clearance between the bottom of the sign and the established grade shall be a ground or monument sign.

Identification and Nameplate: A wall sign stating the name of a person, firm, or name or description of a certain permitted use.

Indirect Illumination: A light source not seen directly.

Internal Illumination: A light source concealed or contained within the sign and which becomes visible in darkness through a translucent surface.

Item of Information: An "item of information" means any of the following: A syllable of a word; an abbreviation; a number; a symbol; a geometric shape. In addition, signs combining several different geometric or non-geometrical shapes or shapes of unusual configuration are to be assessed one additional item for each non-continuous plane.

In computing items of information, lettering three (3) inches or less in height, if it is contained on a wall sign, is not to be included.

Marquee Sign: A display sign attached to or hung from a marquee canopy or other covered structure projecting from and supported by building and extending beyond the building wall or building line.

Mechanical Movement: Refers to animation, revolution, movement up and down, or movement sideways.

Non-accessory Sign: A sign which is not accessory to the principal use of the premises.

Political Sign: A temporary sign, without permit required, relating to the election of a person to public office, or relating to a political party, or relating to a matter to be voted upon at an election called by a public body.

Portable Sign: A freestanding sign not permanently anchored or secured to either a building or the ground, such as, but not limited to: trailers, "A" frame, "T" shaped, or inverted "T" shaped sign structures.

Projecting Sign: A sign which is affixed to any building or part thereof, or structure which extends beyond the building wall, or parts thereof, or structure by more than twelve (12) inches. A projecting sign shall not include a ground sign as herein defined.

Pylon or Pole Sign: A type of freestanding sign located in the ground and with a clear space of not less than ten (10) feet between the bottom of the face of the sign and the established grade and is not attached to a building or structure.

Real Estate Development Sign: A temporary business sign placed on premises of a subdivision or other real estate development to indicate a proposed start or to inform relative to availability.

Real Estate Sign: A business sign placed upon a property advertising that particular property for sale, or for rent, or for lease.

Roof Sign: A sign which is erected, constructed, or maintained upon the roof or parapet of a building but does not project above or beyond the roof or parapet. (A sign projecting beyond or above the roof or parapet shall be known as an "above-the-roof" sign.)

Shopping Center Sign: A sign which gives identification to a shopping center whether or not under single management.

Sign: The use of any word, numeral, figure, object, device, letter, symbol, insignia, illustration, design, trademark, or combination of these, by which anything is made known to the general public, or which is commonly understood to be used to attract the attention of the general public, irrespective of whether it is visible from off the site or lot. Customary displays of merchandise or objects and material, without lettering, placed behind a store window are not signs or parts of signs, nor shall the customary, non-communicative architecture of buildings be considered as a sign or part of a sign.

Signable Area: A continuous wall area on the front of the building which is free of windows and doors and major architectural design. So-called mansard roofs may be used for signable area, provided they are within twenty (20) degrees of a vertical plane and wall signs on them are vertical, unless individual letters are used to make up the wall sign.

Sign, Outdoor Advertising: Any card, cloth, paper, metal, painted glass, wood, plastic, stone or other object of any kind or character whatsoever, placed for non-accessory outdoor advertising purposes on the ground or on any tree, wall, bush, rock post, fence, building, structure or thing whatsoever. The term "placed" as used in the definition of "outdoor advertising sign" and "outdoor advertising structure" shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving or other fastening, affixing, or making visible in any manner whatsoever to the public.

Structure, Outdoor Advertising: Any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign or billboard may be placed, including outdoor advertising statuary and balloons.

Super Graphic: A large sign which is obviously an integral architectural feature of the building of which it is to be a component and that if removed the significant architectural objective of the structure would be obviously diminished.

Temporary Sign (without permit required): A business sign with or without letters and numerals, such as window signs in business and industrial districts, or lightweight cardboard, cloth, plastic or paper materials, and intended to be displayed for special events, sales and notices. Temporary signs shall not be permanently fastened to any structure, including posts with permanent footings. Such signs shall not have a useful life of more than thirty (3) days.

Temporary Sign (with permit required): A business sign with or without letters and numerals for authorized occasions and events or public and semi-public functions, as may be permitted by the Township Board in an appropriate use district.

Vehicle Business Sign: A vehicle sign when the vehicle upon which the sign is painted or attached is parked or placed upon the owner's premises primarily for advertising purposes. Currently licensed commercial vehicles in general daily off-site use are not included as part of this definition.

Wall Sign: A sign attached to and placed flat against the exterior wall or surface of any building, no portion of which projects more than twelve (12) inches from the wall but which may or may not project above the roof or parapet.

Window Sign: A sign which is affixed, attached, painted or otherwise placed on or adjacent to the interior of a window in such a manner as to be readily visible from the exterior of the building.

SINGLE-FAMILY DETACHED CONDOMINIUM: A condominium unit which is physically separated from any other condominium unit and which is designed and intended for occupancy by a single family.

SITE: A parcel of land.

SOIL REMOVAL: Shall mean removal of any kind of soil or earth matter, including topsoil, sand, gravel, clay, rock or similar materials, or combination thereof.

SPECIAL LAND USE: A use that, owing to some special characteristics attendant to its operation or installation (for example, potential danger, smoke or noise) is permitted in a district, subject to approval by the Township and subject to special requirements, different from those usual requirements for the district in which the conditional use may be located.

STATE EQUALIZED VALUATION: The value shown on the Township's assessment roll as equalized through the process of State and County equalization.

STREET: A public thoroughfare which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare, except an alley.

STRUCTURE: Anything constructed or erected on the ground or attached to the ground, including, but without limitation to, buildings, factories, and sheds.

STRUCTURAL ALTERATION: Any change in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams or girders, stairways, or any change in the width or number of exits, or any substantial change in the roof.

SWIMMING POOL: The term "swimming pool" shall mean any structure or container intended for swimming, located either above or below grade designed to hold water to a depth of twenty-four (24) inches or greater.

TEMPORARY USE OR BUILDING: A use or building permitted by the Zoning Board of Appeals to exist during periods of construction of the main building or use, or for special events.

TENTS: Tents as used in this Ordinance shall mean a shelter of canvas or the like supported by poles and fastened by cords or pegs driven into the ground and shall not include those types of tents used solely for children's recreational purposes.

TOWNSHIP BOARD: The Elba Township Board of Trustees.

TRANSFER OF DEVELOPMENT RIGHTS: The conveyance of development rights by deed, easement, or other legal instrument authorized by state or local law to another parcel of land and the recording of that conveyance.

TRAVEL TRAILER PARK (OVERNIGHT CAMPING FACILITY): A place utilized for the temporary storage of travel trailers, for camping purposes, where there is no permanent storage of travel trailers for year-round occupancy, and where commercial activity is limited to service the needs of the temporary occupants of the travel trailer park.

USE: It is the purpose for which land or a building is designed, arranged or intended to be used, or for which land or a building is or may be occupied.

VARIANCE: A dispensation permitted on individual parcels of property as a method of alleviating practical difficulty by allowing a reasonable use of the building, structure or property, which, because of unusual or unique circumstances, is denied by the terms of the zoning code.

A relaxation by the Zoning Board of Appeals of the dimensional regulations of the code where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, a literal enforcement of this code would result in unnecessary and undue hardship.

VETERINARIAN CLINIC: A place for the care, diagnosis and treatment of sick or injured animals and those in need of medical or minor surgical attention. A veterinarian clinic may include customary pens or cages which are permitted only within the walls of the clinic structure.

WAREHOUSE (WAREHOUSING): A use engaged in storage, wholesale and distribution of manufactured products, supplies and equipment, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

YARD: An open, unoccupied and unobstructed from the ground upward, except as otherwise provided herein, and being on the same lot with a building. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building or structure. A "required yard" is that portion of any lot on which the erection of a main building is prohibited.

- a. **Front yard** is a yard on the same lot with a building between the front line of the building and the front lot line and extending from one side lot line to the other side lot line.
- b. **Rear yard** is an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.
- c. **Side yard** is an open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.

ZONE: A portion of the territory of the Township, exclusive of streets, alleys and other public ways, within which certain uses of land, premises and buildings are not permitted, and within which certain yards and open spaces are required and certain height limits are established for buildings.

A mapped area to which a uniform set of regulations applies, or a uniform set of regulations described by a use designator, a neighborhood designator, a development designator, and an optional special area designator.

ZONING BOARD OF APPEALS: The words "Board of Appeals" shall mean the Elba Township Zoning Board of Appeals.

TOWNSHIP OF ELBA
ZONING ORDINANCE AMENDMENT
REZONING OF PROPERTY
ORDINANCE NUMBER 200.001

An Ordinance to amend the Elba Township Zoning Ordinance, being Ordinance Number 200 to rezone certain property.

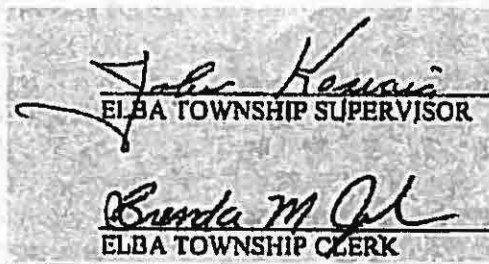
THE TOWNSHIP OF ELBA ORDAINS:

Section 5.01 Zoning District and 5.02 Zoning Map. The following described property is hereby rezoned from R-A Residential Agricultural to R-1 Single Family Residential:

44-008-007-083-00:

08 17 700 000 00 SEC 7 T7N R9E COM 250 FT E OF SW COR OF N 100 A OF NW FRL ¼ TH E 502 FT N 863 FT E 348 FT N TO A PT 109 RDS N OF HWY M-21 W TO WATEREDGE OF POTTER LAKE SWLY ALONG SAID LAKE TO A POINT DIRECTLY N OF BEG TH S TO BEG.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this Ordinance was adopted by the Elba Township Board at a meeting duly held on the 23rd day of January 2006 and was published in the Lapeer County Press on the 8th day of February 2006. This Ordinance Amendment was given immediate effect as of the said date of adoption.



John Kowalski
ELBA TOWNSHIP SUPERVISOR

Brenda M. Jell
ELBA TOWNSHIP CLERK

TOWNSHIP OF ELBA
ZONING ORDINANCE AMENDMENT
REZONING OF PROPERTY
ORDINANCE NUMBER 200.002

An Ordinance to amend the Elba Township Zoning Ordinance, being Ordinance Number 200 to rezone certain property.

THE TOWNSHIP OF ELBA ORDAINS:

Section 5.01 Zoning District and 5.02 Zoning Map. The following described property is hereby rezoned from R-A Residential Agricultural to R-1 Single Family Residential:

44-008-007-085-00:

08 17 801 000 00 SEC 7 T7N R9E COM 752.00 FT E & 221.28 N OF SW COR OF N 100 A OF NW FRL ¼, TH NELY ON N LINE OF HWY M-21, 196.71 FT FOR BEG POINT, TH N 200 FT, TH W 43 FEET, TH S TO N LINE OF HWY M-21, TH ELY ALONG HWY TO BEG. .33A.


44-008-007-086-00

08 17 900 000 00 SEC 7 T7N R9E COM 752.00 FT E & 221.28 FT N OF SW COR OF N 100 A OF NW FRL ¼ TH NELY ALONG THE N LINE OF HWY M-21 196.74 FT TO POINT OF BEG TH N 365 FT E 197.77 FT S 192.12 FT TO N LINE OF HWY TH SWLY ALONG HWY TO BEG. 1.27A.


44-008-007-087-00

08 17 901 000 00 SEC 7 T7N R9E COM 752 FT E & 221.28 FT N OF SW COR OF N 100 A OF NW FRL ¼ TH NELY ALONG N LINE OF M-21 HWY 196.71 FT TH N 365 FT FOR BEG POINT TH N 150 FT TH E 197.77 FT TH S 150 FT, TH W TO BEG. .68 A. ALSO COM 752.00 FT E & 221.28 FT N OF SW COR OF N 100 A OF NW FRL ¼ TH N 641.72 FT E 150.23 FT S 515 FT TO HWY M-21 W ALONG HWY TO BEG EX LAND COM AT SE COR OF SAME, AT N LINE OF HWY M-21, THE N 200 FEET, THE W 43 FT, TH S TO N LINE OF SAID HWY, THE ELY ALONG HWY TO BEG. 2.34 TOTAL ACRES) COMBINED WITH -084 10/2004.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this Ordinance was adopted by the Elba Township Board at a meeting duly held on the 23rd day of January 2006 and was published in the Lapeer County Press on the 8th day of February 2006. This Ordinance Amendment was given immediate effect as of the said date of adoption.



ELBA TOWNSHIP SUPERVISOR



ELBA TOWNSHIP CLERK

**ELBA TOWNSHIP
ORDINANCE NO. 200.003**

An ordinance to amend Section 7.01 of Article VII; Section 18.01 of Article XVIII; and Section 15.06 of Article XV of Ordinance No. 200 concerning certain lake area dwellings.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Statement of Intent.

The Township Board recognizes that irregular dimensions and other unique features of lake area lots makes it difficult for owners of those lots to renovate dwellings located thereon which are deteriorated, damaged or destroyed. The Board passes this ordinance to provide relief from the requirements of Ordinance No. 200 to owners of these dwellings.

Section 2. Amendment of Section 7.01 of Article VII of Ordinance No. 200.

Section 7.01 of Article VII of Ordinance No. 200 is hereby amended to add thereto subsection E to read as follows:

E. Existing Single Family Lake Area Dwellings.

1. The lot on which the single family dwelling is located must be a "nonconforming lot of record" as defined in Ordinance No. 200.
2. Sewer capacity must be available for the lot.
3. Existing single family lake area dwellings must be located within one of the following platted subdivisions:

a. Potter's Lake Park	e. Mill's Landing
b. Piper Park	f. Tinker's Landing
c. Pratt's Landing	g. Highlands
d. Hunt's Landing	h. McKinley's Landing
	i. Nelson's Landing
4. Vacant lake area lots are subject to Section 18.01 of Article XVIII of Ordinance No. 200.
5. The Side yard Setback Requirements are as follows:

Lot Width	Minimum Side Yard	Maximum House Width
0 - 35 ft.	5	25
35 - 38 ft.	6	26
38 - 41 ft.	7	27
41 - 44 ft.	8	28
44 - 47 ft.	9	29
47 - 50 ft.	10	30

Section 3. Amendment of Section 18.01 of Article XVIII of Ordinance No. 200.

Section 18.01 of Article XVIII of Ordinance No. 200 is hereby amended to read as follows:

Zoning District	Minimum Lot Area per Dwelling Unit or Commercial/Industrial Bldg (sq ft)	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Minimum Floor Area Per Dwelling (iv)	Maximum Building Height
	Dwelling Unit or Commercial/Industrial Bldg. (sq. ft)	(i) (ft)	Setback (ii) (ft)	Setback (iii) (ft)	Setback (iii) (ft)	(sq. ft)	(ft)
R-A	5 acres with 4 to 1 ratio (max)	300	100	25	25 (viii)	1,200 (iv)	40 (v)
R-1	40,000 30,000 (vi)	100	30	10 (x)	15 (viii)	1200 (iv)	40 (v)
R-2	20,000	80	30	10	15 (viii)	1200	25 (v)
R-3	10,000 (vii)	80	30	10	15 (viii)	980	25 (v)
R-4	20,000	80	30	10	15 (viii)	1200	25 (v)
C-1	50,000 (ix)	150	50	20	20		25
C-2	50,000 (ix)	150	50	20	20		25
C-3	50,000 (ix)	150	50	20	20		25
I	50,000 (ix)	150	50	40	40		50

- (i) Measured at the road right-of-way line
- (ii) Measured from road right-of-way line
- (iii) In no case shall a building be constructed within 30 feet of any public road or right-of-way
- (iv) The first floor of a dwelling containing more than one story shall contain at least 720 sq. ft. The total floor area of a dwelling with more than one story shall contain at least 1,200 sq. ft.
- (v) Not applicable to farm structures such as barns, silos, or grain elevators.
- (vi) Where public sewer and/or water is available, 30,000 sq. ft.
- (vii) Forty (40)-acre minimum site size for Mobile Home Park.
- (viii) An accessory building may be permitted in the required rear yard provided that there is maintained at least fifteen (15) feet between the building and the lot lines. A storage building of one hundred (100) sq. ft or less for garden tools and equipment may be constructed in the required rear yard within three (3) feet of the lot lines with required rear yard setback. When an accessory building is located on a corner lot, the required front yard setbacks shall be maintained from each street.
- (ix) No parking allowed within the front yard setback area.
- (x) Side yard Setback requirements for lake area dwellings are specified in Section 7.01(E) of Article VII of Ordinance No. 200.

Section 4. Amendment of Section 15.06(A) of Article XV of Ordinance No. 200.

Section 15.06(A) of Article XV of Ordinance No. 200 is hereby amended to read as follows:

- A. **Minimum Size.** Each dwelling shall contain the minimum number of square feet specified in Article XVIII, Section 18.01 prior to any alterations or additions. Each dwelling shall be at least twenty-four (24) feet in width, with the exception of existing lake area dwellings on "non-conforming lots," which are subject to Section 7.01(E) of Article VII.

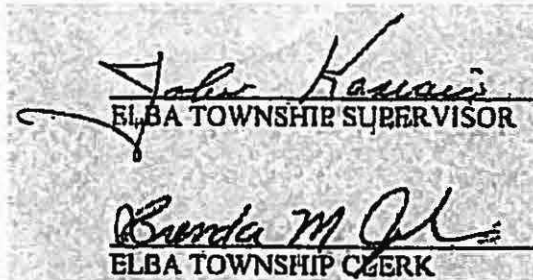
Section 5. Effective Date.

This Ordinance shall become effective thirty (30) days after publication.

At a Regular meeting of the Board of Trustees of Elba Township held on August 13th, 2007, adoption of the foregoing ordinance was moved by HODGES and seconded by STOCKMAN.

Voting for: 6 Voting Against: 0

The supervisor declared the ordinance adopted.



Jahar Kasari
ELBA TOWNSHIP SUPERVISOR

Brenda M. [Signature]
ELBA TOWNSHIP CLERK

CERTIFICATION

The foregoing is a true copy of Ordinance No. 200.003 which was enacted by the Elba Township Board of Trustees at a regular meeting held on August 13th, 2007.



Brenda M. [Signature]
ELBA TOWNSHIP CLERK

ELBA TOWNSHIP

ORDINANCE NO. 200.004

An ordinance to amend Section 3.01 of Article III of Ordinance No. 200, the Township Zoning Ordinance.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Amendment of Section 3.01 of Zoning Ordinance.

The Township hereby amends Section 3.01 of Article III of Ordinance No. 200 to read as follows:

Section 3.01 SCOPE.

No building or structure, or part thereof shall hereinafter be erected, constructed, placed, altered or moved; and no new use or change in use shall be made of any building, structure or land, or part thereof; and no land shall be divided, except in conformity with the provisions of this ordinance and the Township of Elba Land Division Ordinance 37.3.

Section 2. Effective Date.

This Ordinance shall become effective thirty (30) days after publication.

At a regular meeting of the Board of Trustees of Elba Township held on January 12th, 2009, adoption of the foregoing ordinance was moved by JOHNSON and seconded by CONNELL.

Voting for: 6
Voting against: 0

The Supervisor declared the Ordinance adopted.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 200.004 which was enacted by the Elba Township Board of Trustees at a regular meeting held on January 12th, 2009.


ELBA TOWNSHIP CLERK

ELBA TOWNSHIP

ORDINANCE NO. 200.005

An ordinance to amend Section 6.01(B) of Article VI and Section 7.01(B) of Article VII of Ordinance No. 200, the Township Zoning Ordinance.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Amendment of Section 6.01(B) of Zoning Ordinance.

The Township hereby amends Section 6.01(B) of Article VI of Ordinance No. 200 to read as follows:

Section 6.01.

- B. One single family dwelling per parcel

Section 2. Amendment of Section 7.01(A) of Zoning Ordinance.

The Township hereby amends Section 7.01(A) of Article VII of Ordinance No. 200 to read as follows:

Section 7.01.

- A. One single family dwelling per parcel

Section 3. Effective Date.

This Ordinance shall become effective thirty (30) days after publication.

At a regular meeting of the Board of Trustees of Elba Township held on January 12th, 2009, adoption of the foregoing ordinance was moved by JOHNSON and seconded by CONNELL.

Voting for: 6

Voting against: 0

The supervisor declared the ordinance adopted.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 200.005 which was enacted by the Elba Township Board of Trustees at a regular meeting held on January 12th, 2009.


ELBA TOWNSHIP CLERK

ELBA TOWNSHIP

ORDINANCE NO. 200.006

An ordinance to amend Section 15.02 of Article XV of Ordinance No. 200, the Township Zoning Ordinance.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Amendment of Section 15.02 of Zoning Ordinance.

The Township hereby amends Section 15.02 of Article XV of Ordinance No. 200 to read as follows:

Section 15.02 ROAD FRONTAGE.

Every dwelling or other building shall be located on a lot or parcel, which shall front upon a public street or upon a private road constructed to the specifications of the Township Engineering Ordinance or the Township Private Roads Ordinance, as the case may be.

Section 2. Effective Date.

This Ordinance shall become effective thirty (30) days after publication.

At a regular meeting of the Board of Trustees of Elba Township held on January 12th, 2009, adoption of the foregoing ordinance was moved by JOHNSON and supported by CONNELL.

Voting for: 6

Voting against: 0

The supervisor declared the ordinance adopted.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 200.006 which was enacted by the Elba Township Board of Trustees at a regular meeting held on January 12th, 2009.


ELBA TOWNSHIP CLERK

ELBA TOWNSHIP

ORDINANCE NO. 200.007

An ordinance to amend Section 6.02 of Article VI; Section 11.02 of Article XI; Section 12.02 of Article XII; Section 13.02 of Article XIII; and Section 14.02 of Article IX of Ordinance No. 200, the Township Zoning Ordinance, to add Wind Energy Turbines as uses permitted after special approval in certain zoning districts.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Amendment of Ordinance No. 200, the Township Zoning Ordinance.

The Township hereby amends Ordinance No. 200, the Township Zoning Ordinance, by adding the following subsections thereto:

Section 6.02 of Article VI.

K. Wind Energy Turbines. Class 3, 4 and 5 Wind Energy Turbines shall comply with all provisions of Ordinance No. 58, the Wind Energy Turbine ordinance.

Section 11.02 of Article XI.

G. Wind Energy Turbines. A Class 3 Wind Energy Turbines shall comply with all provisions of Ordinance No. 58, the Wind Energy Turbine ordinance.

Section 12.02 of Article XII.

I. Wind Energy Turbines. A Class 3 Wind Energy Turbines shall comply with all provisions of Ordinance No. 58, the Wind Energy Turbine ordinance.

Section 13.02 of Article XIII.

H. Wind Energy Turbines. A Class 3, 4 or 5 Wind Energy Turbines shall comply with all provisions of Ordinance No. 58, the Wind Energy Turbine ordinance.

Section 14.02 of Article XIV.

L. Wind Energy Turbines. A Class 3, 4 or 5 Wind Energy Turbines shall comply with all provisions of Ordinance No. 58, the Wind Energy Turbine ordinance.

Section 2. Effective Date.

This Ordinance shall become effective thirty (30) days after publication.

At a regular meeting of the Board of Trustees of Elba Township held on April 26, 2010, adoption of the foregoing ordinance was moved by JOHNSON and supported by NELSON.

Voting for: 7

Voting against: 0

The supervisor declared the ordinance adopted.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 200.007 which was enacted by the Elba Township Board of Trustees at a regular meeting held on April 26, 2010.

Brenda M. Johnson, Township Clerk


ELBA TOWNSHIP CLERK

ELBA TOWNSHIP

ORDINANCE NO. 200-008

An ordinance to repeal Ordinance No. 200.007 and to amend Section 6.02 of Article VI; Section 11.02 of Article XI; Section 12.02 of Article XII; Section 13.02 of Article XIII; and Section 14.02 of Article XIV of Ordinance No. 200, the Township Zoning Ordinance relating to Wind Energy Turbines.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Amendment of Ordinance No. 200, the Township Zoning Ordinance.

The Township hereby amends Ordinance No. 200, the Township Zoning Ordinance, by adding the following subsections thereto:

Section 6.02 of Article VI.

K. Wind Energy Turbines. Class 3, 4 and 5 Wind Energy Turbines shall comply with all provisions of Ordinance No. 58, the Wind Energy Turbine ordinance, and Class 1 and 2 if the total height exceeds the Maximum Building Height, as specified in Section 18.01 of the Township Zoning Ordinance.

Section 11.02 of Article XI.

G. Wind Energy Turbines. A Class 3, 4 and 5 Wind Energy Turbines shall comply with all provisions of Ordinance No. 58, the Wind Energy Turbine ordinance, and Class 1 and 2 if the total height exceeds the Maximum Building Height, as specified in Section 18.01 of the Township Zoning Ordinance.

Section 12.02 of Article XII.

I. Wind Energy Turbines. A Class 3, 4 and 5 Wind Energy Turbines shall comply with all provisions of Ordinance No. 58, the Wind Energy Turbine ordinance, and Class 1 and 2 if the total height exceeds the Maximum Building Height, as specified in Section 18.01 of the Township Zoning Ordinance.

Section 13.02 of Article XIII.

H. Wind Energy Turbines. A Class 3, 4 or 5 Wind Energy Turbines shall comply with all provisions of Ordinance No. 58, the Wind Energy Turbine ordinance, and Class 1 and 2 if the total height exceeds the Maximum Building Height, as specified in Section 18.01 of the Township

ELBA TOWNSHIP

ORDINANCE NO. 200.009

An ordinance to amend Section 14.02 of Article XIV; of Ordinance No. 200, the Township Zoning Ordinance, to add Medical Marihuana Dispensary as uses permitted after special approval in the Industrial Zoning District.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Amendment of Ordinance No. 200, the Township Zoning Ordinance.

The Township hereby amends Ordinance No. 200, the Township Zoning Ordinance, by adding the following subsections thereto:

Section 14.02 of Article XIV.

M. Medical Marihuana Dispensary. A Medical Marihuana Dispensary shall comply with all provisions of Ordinance No. 59, the Medical Marihuana Dispensary ordinance.

Section 2. Effective Date.

This Ordinance shall become effective thirty (30) days after publication.

At a regular meeting of the Board of Trustees of Elba Township held on October 11, 2011, adoption of the foregoing ordinance was moved by NELSON and supported by CONNELL.

The supervisor declared the ordinance adopted.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 200.009 which was enacted by the Elba Township Board of Trustees at a regular meeting held on October 11, 2011.


ELBA TOWNSHIP CLERK

Zoning Ordinance.

Section 14.02 of Article XIV.

L. Wind Energy Turbines. A Class 3, 4 or 5 Wind Energy Turbines shall comply with all provisions of Ordinance No. 58, the Wind Energy Turbine ordinance, and Class 1 and 2 if the total height exceeds the Maximum Building Height, as specified in Section 18.01 of the Township Zoning Ordinance.

Section 2. Repeal of Ordinance No. 200.007

The Township hereby repeals Ordinance No. 200.007 in its entirety.

Section 3. Effective Date.

This Ordinance shall become effective thirty (30) days after publication.

At a regular meeting of the Board of Trustees of Elba Township held on September 26, 2011, adoption of the foregoing ordinance was moved by NELSON and supported by STOCK.

The supervisor declared the ordinance adopted.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 200.008 which was enacted by the Elba Township Board of Trustees at a regular meeting held on September 26, 2011.


ELBA TOWNSHIP CLERK

TOWNSHIP OF ELBA
ZONING ORDINANCE AMENDMENT
REZONING OF PROPERTY
ORDINANCE NUMBER 200.010

An Ordinance to amend the Elba Township Zoning Ordinance, being Ordinance Number 200 to rezone certain property.

THE TOWNSHIP OF ELBA ORDAINS:

Section 5.01 Zoning District and 5.02 Zoning Map. The following described property is hereby rezoned from R-A Residential Agricultural to R-1 Single Family Residential:

44-008-005-006-00:

08 06 704 000 00 SEC 5 T7N R9E THE S 673 FT OF SW ¼ OF NW FRL ¼. 20.45 A.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this Ordinance was adopted by the Elba Township Board at a meeting duly held on the 13th day of August, 2012 and was published in the Lapeer County Press on the 26th day of August, 2012. This Ordinance Amendment was given immediate effect as of the said date of adoption.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 200.010 which was enacted by the Elba Township Board of Trustees at a regular meeting held on August 13th, 2012.


ELBA TOWNSHIP CLERK

COPIE

Elba Township

ORIGINAL

ORDINANCE NO. 200.011

An Ordinance to amend Section 15.23 of Article XV of Ordinance No. 200, the Township Zoning Ordinance

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Amendment of Section 15.23 of Zoning Ordinance.

The Township hereby amends Section 15.23 of Article XV of Ordinance No. 200 to read as follows:

Section 15.23 ACREAGE REQUIREMENTS FOR KEEPING OF ANIMALS

Ownership of all animals shall be in strict compliance with all County, State and Federal laws, regulations and restrictions. This includes, but not limited to, the Lapeer County Animal Control Ordinance, the Michigan Right to Farm Act (RTFA) and the Generally Accepted Agricultural and Management Practices (GAAMP). To receive protection under the RTFA, the farming operation must be for-profit or commercial in nature.

Raising domestic farm animals for pleasure or personal use in zone locations R/A (Residential/Agricultural) and R-1 (Single Family Residential) shall require a minimum of five (5) acres suitable to support animals.

Active Future Farmers of America (FFA) and 4-H youth participants are exempt from the five (5) acres minimum.

Domestic farm animals include: cows, sheep, goats, swine, horses, mules, donkeys, rabbits, chickens, turkeys, ducks, geese, guineas, peacocks, alpaca and llama.

Animals not listed require special land use approval.

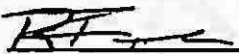
Section 2. Effective Date.

This Ordinance shall become effective thirty (30) days after publication.

At a regular meeting of the General Board of Elba Township held on APRIL 8, 2013, adoption of the foregoing ordinance was moved by LINTZ and supported by NELSON.

Ayes:7
Nays: 0

The supervisor declared the ordinance adopted.




Rena Fountain
Township Clerk



Michael Boskee
Township Supervisor

CERTIFICATION

The foregoing is a true copy of Ordinance No. 200.011 which was enacted by the Elba Township General Board at a regular meeting held on APRIL 8, 2013.



Rena Fountain
Elba Township Clerk

Section 15.07. SIGNS

Signs constructed or relocated require a Township application, review and approval by the Planning Commission and a permit issued by the Zoning Administrator. All signs shall be regulated as follows:

A. APPLICATION AND PERMIT REQUIREMENTS

1. Sign Application Permit

(a) A written sign application shall be made on forms provided by the Township for site plan review. The application request will be added to the next available agenda of the Planning Commission meeting. If sign(s) are included as part of a parcel site plan review, a separate application is not required.

(b) The sign application shall be accompanied by a site plan, sign drawing and sign data presented in accordance with the following requirements and showing the information required. Information not provided will delay approval.

- All existing and proposed sign(s) on the site.
- All locations of existing and proposed streets, roadways, parking areas, entrances and exits within fifty (50) feet of the proposed sign(s).
- Dimensions of the sign above the ground.
- Surface of the sign (material, color).
- Area of sign surface.
- Lettering of sign, drawn and style as it will appear on the erected sign.
- Method, color and hours of illumination, if any, and electrical connectivity.
- Logos, emblems or additional features.
- For wall signs a drawing of the total building wall upon whose face the sign is to be displayed at a reasonable scale, preferably 1/4" = 1'0".

2. Permit Required

Once sign approval is granted by the Township Planning Commission and prior to altering, relocating, erecting, re-erecting or constructing any sign, the owner must first obtain the necessary permits from the Zoning Administrator.

B. ZONING DISTRICT REGULATIONS

1. Residential Zoning Districts (All Residential Zoning Districts)

(a) One (1) identification sign or nameplate is permitted for each dwelling unit with a permitted home occupation.

(b) One (1) announcement or bulletin board sign is permitted for each approved institutional, educational and religious building site.

(c) One (1) subdivision entrance sign for each major entrance to a residential subdivision, mobile home park or multiple-family development.

2. Commercial Zoning Districts

(a) One (1) sign is permitted for each site, unless the structure is adjacent to more than one street or alley, then one (1) additional wall sign may be permitted on each wall fronting each street or alley.

(b) A monument sign is preferred unless the area will not accommodate a monument sign.

(c) One (1) identification wall sign shall be permitted for each tenant having an individual public entrance to a building. Where multiple tenants share an entrance, one (1) identification wall sign may be permitted to include all tenants.

3. Industrial Zoning Districts

(a) One (1) monument sign shall be permitted for each site or one (1) wall sign shall be permitted for each business.

(b) One (1) entrance sign shall be permitted for each major road entrance to identify an industrial or technical park.

C. GENERAL REGULATIONS

1. Exempt Signs

The following signs are exempt from the sign application and building permit requirements. The signs shall, however, conform to all applicable regulations specified within this Ordinance.

- Handicap signs
- Historical marker signs
- Identification signs or nameplates
- Political signs
- Real estate signs
- Warning signs
- Window signs
- County, State or Federal road or traffic control signs
- Signs not visible beyond the boundaries of the lot or parcel upon which they are situated or not visible from any public thoroughfare or right-of-way

2. Prohibited Signs

(a) Cloth signs, balloon signs or displays, streamers, windblown devices, spinners, banners, pennants, and projecting signs.

(b) Flashing, oscillating, rotating, animated, moving, or bare bulb-type signs or displays.

(c) Pylon/Pole signs

(d) Off-Site signs

(e) Billboards

(f) Marquee signs

(g) Abandoned signs

(h) Vehicles and trailers used as signs

(i) Any other sign not specifically authorized hereunder

3. Location Requirements

(a) Signs permitted herein, shall not be located in, project into, or overhang a public right-of-way or dedicated public easement.

(b) Signs established and maintained by the School District, County, State or Federal governments, may be located within the triangle formed by the intersection of any road right-of-way and/or access drive at points twenty-five (25) feet distant from the point of their intersection.

(c) Signs set back area shall be located so as not to impede pedestrian, vehicular traffic, or obstruct vision.

4. Illumination of Signs

(a) Illumination of signs shall be positioned and/or shielded so the light shines away from adjoining properties and the eyes of motorists or pedestrians. The light source of such illumination shall be shielded from public view.

(b) Specialty lighting, such as neon accent lighting, digital or "open" signs, may be permitted by the Planning Commission on a finding that the proposal is in character with the use and not detrimental to other uses in the vicinity.

(c) A lighted display of time, temperature, or stock market information may be permitted as part of a sign, subject to Planning Commission review and approval.

5. Maintenance of Signs

If upon inspection by the Zoning Administrator, a sign is found to be unsafe, insecure, corroded, or otherwise poorly maintained, then the owner shall remove the sign or make the sign safe and secure. Reconstruction or improvements shall be in accordance with the

following timetable, unless the sign is required to be removed by the nonconforming sign regulations (Sec.15.07.C.6).

(a) If the Zoning Administrator determines the sign is an immediate threat to the safety of persons or property nearby, all required action to correct the defect shall be taken within forty-eight (48) hours (two working days) of written notification by the Zoning Administrator, provided the sign can be cordoned off or adequately secured during the intervening time to remove any immediate threat to safety. If such sign cannot be cordoned off or secured so as to eliminate any immediate threat to the safety of persons or property, then all required action to correct the defect shall be made forthwith.

(b) If the Zoning Administrator determines the sign is not an immediate threat to the safety of persons or property, all required action to correct the defect shall be made within thirty (30) days after written notification by the Zoning Administrator. The Zoning Administrator may extend the thirty (30) day timetable if temperatures below twenty-five (25) degrees Fahrenheit prevent painting, or if the defects involved are minor, not generally noticeable to the public, and not a hazard to public safety.

(c) If defects are not corrected within the specified time limits, the Township may remove, or cause to be removed, the sign at the expense of the sign owner or tenant to whom the sign applies. The expenses shall be paid within thirty (30) days after receiving notification of such expense from the Township. Notification shall be made by certified mail.

6. Nonconforming Signs

A nonconforming sign is a sign which does not conform to the standards and specifications of this Ordinance. Non-conforming signs shall be subject to the following regulations:

(a) A sign in a residential district which is a nonconforming sign shall be removed by the owner, agent, or person within thirty (30) days after receiving a written notice from the Zoning Administrator.

(b) A sign which advertises a business or industry no longer being conducted, or producing or selling a product no longer being manufactured or sold on the property, the owner may keep the sign structure as long as it conforms to this Ordinance. Sign structure and frame may be reused by a new occupant or business in a leased or rented building. The property owner shall not be required to remove the sign structure and frame while the building is not occupied, provided the sign structure and frame conform and are maintained in accordance with this section and all other relevant Township ordinances and codes. The face of the sign advertising the name of the former business or industry shall be removed or covered, by the property owner within 30 days of business closure, so it does not appear that business is being conducted on the property.

(c) A sign that is damaged to the extent that the cost of repairs exceed fifty (50%) percent of the value of the sign, shall be removed entirely and reconstructed to comply with the provisions of this Ordinance.

7. Legal Non-Conforming Sign

(a) A legal nonconforming sign is a sign which does not conform to all the applicable provisions of this Ordinance but was in existence and in use prior to the adoption of Ordinance 200, March 23, 2003.

(b) A legal non-conforming sign that will be replaced, altered, or relocated, shall conform to Section 16.03 of Ordinance 200.

(c) Signs of a historical nature may be given consideration by the Planning Commission to preserve its historical value.

D. SPECIFIC REGULATIONS

1. Bulletin/Announcement Signs

(a) Shall not exceed sixteen (16) square feet in area.

(b) Shall not exceed six (6) feet in height from grade.

2. Awning or Canopy Signs

(a) An awning or canopy sign shall be placed only on the principal front of the building.

(b) An awning or canopy sign may be permitted in lieu of a permitted wall or monument sign.

(c) An awning or canopy sign shall not exceed twenty (20) square feet in display area.

(d) A minimum vertical clearance of fourteen (14) feet shall be provided beneath any awning or canopy sign, which projects over a parking area or driveway. In all other areas, a minimum vertical clearance of eight (8) feet shall be provided beneath an awning or canopy.

3. Identification Signs

(a) Wall mounted identification signs shall not exceed two (2) square feet in display area. Such wall-mounted signs shall not extend outward more than two (2) inches from the surface of a wall on the subject structure.

(b) Freestanding identification signs shall not exceed three (3) feet in height.

(c) One (1) unlit wall-mounted identification sign may be permitted for each approved professional office.

(d) One (1) unlit freestanding or wall-mounted sign may be permitted for a home occupation.

4. Monument (Ground) Signs

(a) The principal sign of the site should be a monument sign. Other types of signs will only be considered when construction or placement of a monument sign is not possible.

(b) Monument signs shall not exceed a height of six (6) feet and a display area of eighty (80) square feet.

(c) If the Planning Commission determines architectural features of the sign, such as wood, rock or brick framing, are in harmony with the surrounding area and the principal structure, the architectural features of the sign shall not count as part of the display area.

However, such architectural features shall not constitute greater than twenty-five (25%) percent of the total sign area.

5. Political Signs

(a) Political signs may be located in any district, provided that permission has been obtained from the property owner.

(b) Political signs shall be erected no earlier than forty-five (45) days prior to an election and shall be removed within ten (10) days after the election.

6. Real Estate Signs

(a) One (1) unlit real estate sign shall be permitted which advertises the sale, rental, or lease of the premises or property upon which said sign is located.

(b) One (1) unlit sign indicating a building is "open" for inspection or open house shall be permitted for the duration of the open hours.

(c) In residential districts, no such sign shall exceed eight (8) square feet in display area.

(d) In non-residential zoning districts, such signs shall not exceed thirty-two (32) square feet in display area.

(e) All such signs shall be removed within seven (7) days after the property has been rented, leased or sold, or the title is otherwise transferred.

(f) No off-site/directional signs are permitted.

7. Real Estate Development Signs

(a) Real estate development signs shall be permitted for each development in which lots are still available. No such sign shall exceed thirty-two (32) square feet in sign area and eight (8) feet in height.

(b) Such sign shall be removed within seven (7) days after all of the units or lots on that site have been sold or leased.

(c) A real estate development sign shall not be allowed to occupy the property for more than two (2) years, except when an extension is granted. One (1) year extensions may be granted by the Planning Commission.

(d) No off-site signs are permitted.

8. Subdivision or Apartment Entrance Signs

(a) A subdivision or apartment entrance sign shall not exceed thirty-two (32) square feet in sign display area. If the Planning Commission determines that architectural features of the sign are in harmony with the surrounding area and the principal structure, the architectural features of the sign shall not count as part of the display area.

(b) A subdivision entrance sign, including its architectural features, shall not exceed six (6) feet in height.

(c) A subdivision entrance sign may be located in a traffic island at the entrance of a subdivision, if the Planning Commission determines the sign will not obstruct motorist vision.

9. Temporary Signs

(a) A temporary sign shall not exceed thirty-two (32) square feet in display area. Freestanding temporary signs shall not exceed six (6) feet in height.

(b) The Township shall issue a permit, upon its own authority, to businesses, organizations or groups to display a temporary sign for a specific cause, function or activity. A maximum of two (2) temporary sign permits shall be permitted at any one location during a calendar year, with a combined permitted display time not exceeding thirty (30) days. This shall not apply to political or auction signs.

(c) Banners, pennants, spinners, streamers, balloons and other windblown signs or displays are permitted only for non-profit, institutional or community activities or events. These displays or signs are also permitted for new businesses. However, no display or sign shall be erected more than thirty (30) days prior to the activity or event or the opening of a new business.

(d) All signs and displays for a non-profit, institutional or community activity or event must be removed within seven (7) days following that event. In the case of a new business, all displays and/or signs must be removed no later than thirty (30) days after the opening of the business.

10. Wall Signs

(a) Wall signs shall not exceed ten (10%) percent of the sign area of the elevation on which the sign is to be placed, or eighty (80) square feet in display area.

(b) A wall sign shall not project more than twelve (12) inches horizontally beyond the wall of a building.

(c) A wall sign shall be used to display the name of the firm, the address or a symbol, or type of business.

(d) Wall signs shall not exceed the perimeter of the wall face.

11. Window Signs

(a) Window signs shall not occupy more than twenty (20%) percent of the total window area.

E. MEASUREMENT OF SIGN AREA

Sign area shall include the total area within any rectangle, square, circle, triangle, or other geometric shape, together with any frame or other material forming the sign.

(a) For a single-faced sign, the area shall be computed as the total exposed exterior surface in square feet.

(b) The area of a double-faced sign shall be computed using one face of the sign, provided that the outline and dimensions of both faces are identical and that the faces are back-to-back so that only one face is visible at any given location.

(c) In the case of a wall sign in which there is no frame or other material forming an integral part of the display or used to differentiate such sign from the background against which it is placed, the envelope shall be around the letters, logos, emblems, figures, pictures, etc.

(d) In the case of an awning or canopy sign, where there is no design or envelope forming an integral part of the display which differentiates the sign from the background of the awning material or color, the envelope shall be around the letters, logos, emblems, figures, stripes, etc. In the case of transparent or translucent awnings or canopies which have internal lighting, the entire surface of the awning or canopy shall be considered as the sign.

(e) All double-faced signs shall be back-to-back.

EFFECTIVE DATE: December 20, 2013

SIGN ORDINANCE 200.012

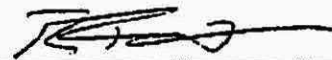
This Ordinance shall become effective thirty (30) days after publication.

At a regular meeting of the General Board of Elba Township was held on November 12, 2013, adoption of the foregoing ordinance was moved by LINTZ and supported by NELSON.

Voting for: 7

Voting against: 0

The Supervisor declared the Ordinance adopted.



Rena Fountain
Township Clerk



Michael Boskee
Township Supervisor

CERTIFICATION

The foregoing is a true copy of Ordinance No. 200.012 of which was enacted by the Elba Township General Board at a regular meeting held on November 12, 2013.



Rena Fountain, Township Clerk

ELBA TOWNSHIP
LAPEER COUNTY, MICHIGAN

ORDINANCE NO. 200.013

AMENDMENT OF ELBA TOWNSHIP ZONING ORDINANCE

TITLE

AN ORDINANCE amending the Elba Township Zoning Ordinance, being Ordinance No. 200, of the Elba Township Ordinances, as amended, rezoning Parcel ID Nos. 44-008-480-007-00 and 44-008-480-005-00 from R-1 to C-1, revising the Zoning Map to reflect the rezoning, and repealing any and all Ordinances and/or Resolutions in conflict therewith.

THE TOWNSHIP BOARD OF THE TOWNSHIP OF ELBA, LAPEER COUNTY, MICHIGAN, ORDAINS:

SECTION 1 - AMENDMENTS

The Zoning Map of Elba Township previously adopted and declared to be a part of the Zoning Ordinance shall be further amended as follows:

Parcel ID Nos. 44-008-480-007-00 and 44-008-480-005-00 shall be rezoned from R-1 to C-1.

This zoning amendment is subject to the terms and conditions of a Conditional Rezoning Agreement dated August 5, 2014 by and between Elba Township and Kevin Knisely.

SECTION 2. REPEAL OF CONFLICTING PROVISIONS

All resolutions, ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

SECTION 3. SEVERABILITY

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 4. PUBLICATION

This Ordinance or a summary of this Ordinance shall be published in a newspaper of general circulation in the Township of Elba within fifteen (15) days after its adoption. A copy of this Amendment may be purchased or inspected at the Elba Township Clerk's Office during regular Township business hours.

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect seven (7) days after the date of publication of a true copy or summary thereof in a newspaper circulating within the Township of Elba, as provided by Section 4.

CERTIFICATE OF TOWNSHIP CLERK

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of Elba Township, Lapeer County, Michigan, at a meeting held on the 25th day of August, A.D., 2014.

I hereby further certify that the following Township Board members were present at the meeting:

Michael Boskee, Bonnie J. Wilcox, Rena Fountain, Robert Nelson Jr., Nina M. Suter, Michael Stockman, Tim Lintz

and the following Township Board Members were absent:

None


I further certify that Member Nelson moved for the adoption of the Ordinance, and that motion was supported by Member Lintz

I further certify that the following Elba Township Board Members voted for the adoption of the Ordinance:

Michael Boskee, Bonnie J. Wilcox, Rena Fountain, Robert Nelson Jr., Nina M. Suter, Michael Stockman, Tim Lintz

and that the following ELBA Township Board members voted against adoption of the Ordinance:

None



Rena Fountain,
Elba Township Clerk

CERTIFICATE OF PUBLICATION

I, Rena Fountain, the Township Clerk of Elba Township do hereby certify that on August 31st, 2014, the foregoing Ordinance, or Summary of the Ordinance, was duly published in a newspaper having general circulation within said Township.



Rena Fountain,
Elba Township Clerk

APPROVED

ORIGINAL

ELBA TOWNSHIP
LAPEER COUNTY, MICHIGAN
ORDINANCE NO. 200 .014

SUMMARY OF AMENDMENT OF ELBA TOWNSHIP ZONING ORDINANCE

PLEASE TAKE NOTICE that on September 8th, 2014, the Elba Township Board adopted an amendment of the Elba Township Zoning Ordinance, being Ordinance No. 200 of the Elba Township Ordinances, as amended, revising the application process for new communication towers, collocations, maintenance of existing communication equipment and installation of new communication facilities, including time frames for review of the application and limitation on fees; revising regulations applicable to communication towers, including landscaping and buffering to screen the facilities, required signage and accommodation of collocators; establishing that collocation and/or maintenance on existing wireless communication equipment in Elba Township is a permitted use if specified criteria are satisfied; providing that special land use approval of wireless communication equipment shall be required if specified criteria are met. A true copy of the Ordinance Amendment is on file with the Township Offices and may be examined or a copy purchased during regular business hours.



Rena Fountain
Elba Township Clerk

**ELBA TOWNSHIP
LAPEER COUNTY, MICHIGAN**

ORDINANCE NO. 200.014

AMENDMENT OF ELBA TOWNSHIP ZONING ORDINANCE

TITLE

AN ORDINANCE amending the Elba Township Zoning Ordinance, being Ordinance No. 200, of the Elba Township Ordinances, as amended, to provide for additional requirements for the location of communication towers, to encourage co-location, to refine application requirements, and to repeal any and all Ordinances and/or Resolutions in conflict therewith.

**THE TOWNSHIP BOARD OF THE TOWNSHIP OF ELBA, LAPEER
COUNTY, MICHIGAN, ORDAINS:**

SECTION 1 - AMENDMENTS

The Elba Township Zoning Ordinance, being Ordinance No. 200 of the Elba Township Ordinances, as amended, is hereby further amended as follows:

Section 15.13 (Communication Towers) is hereby repealed in its entirety and replaced with the following provision:

Communication towers, including transmission towers, relay and/or receiving antennas, and normal accessory facilities involved in television, radio, microwave, cable systems, cellular, personal communication and similar communication services and facilities, may be permitted after special approval (Sec 20.01) in the Residential-Agricultural Zoning Districts (RA) , Commercial Zoning Districts (C-1), (C-2), (C-3), and Industrial Zoning Districts (I) in conformance with the following requirements. This Ordinance shall not govern the installation of any antenna, including the antenna support structure that is forty (40) feet or less in height.

- A. Proof of ownership of the property, or the name, address, and telephone number of the owner of the leased property on which the wireless communication facility is to be located, constructed, installed or modified, and letter of consent from the owner.
- B. The applicant shall submit a written statement and technical verification regarding the nature of any transmissions, electromagnetic fields, or any other radiation emitted from the facility, and any potential hazards to humans, animals, vegetation or property in the area. The applicant shall also submit a written explanation of the design characteristics and ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards. This information shall address the potential for the tower or other mounting structure and/or antennas to topple over or collapse and what tower configuration should be expected in such an event. Technical documentation of any information regarding these concerns shall also be provided.
- C. A site development plan shall be submitted with the application request (See Section 15.04 and Section 19.01). The Township shall notify the applicant in writing within the fourteen (14) day period if there is any additional information needed to make the application complete. If no notice is sent to the applicant within the fourteen (14) day period, the application shall be deemed to be complete. The Planning Commission must act on application for special approval for a communication tower which does not involve co-location, within ninety (90) days of receipt of a completed application. A fee required to accompany the application shall not exceed the Township's actual, reasonable costs to review and process the application or \$1,000.00, whichever is less.
- D. The minimum setback from any property line or road right-of-way shall be equal to the height of the tower.
- E. The tower or antenna shall not be unreasonably injurious to the safety, aesthetics, or market value of nearby properties.
- F. Before approval is granted for a new facility, the applicant shall demonstrate that all possible alternatives were considered within the service area for the proposed tower and an explanation why existing towers or structures cannot accommodate the proposed antennas.
- G. All towers and related equipment shall be designed to be compatible and harmonious in terms of style and building materials to the surrounding area. When necessary to insure compatibility with the surrounding area, a visual simulation may be required of

the applicant. A visual simulation consists of an artist's or architect's rendering of how the tower will appear in the area proposed, taking into account existing buildings and natural features. The development of any such facility, together with accessory uses, shall be in such a location, size and character as to be compatible with the orderly development of the zoning district in which it is situated and shall not be detrimental to the orderly and reasonable development or use of properties in the adjacent areas or the community at large.

1. Monopole antenna structures are permitted in Elba Township. "Web" or "lattice" type towers shall be prohibited.
 2. All tower bases and related equipment shall be enclosed with secured fencing.
 3. The site shall be landscaped and maintained with a buffer of plant materials, or a type of fencing, that effectively screens the view of all tower accessory structures,
 4. In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of new facilities on the Township, tower permit approval is conditional subject to the owner(s) agreeing to allow future co-location of other antenna(s).
 5. Communication towers shall be marked with a sign that does not exceed four (4) square feet in size. The sign shall include the name of the facility's owner as well as the user's name and emergency contact telephone number. The sign shall be placed in a clearly visible location. No advertising signs are permitted.
- H. In furtherance of the Township's objective of strongly encouraging co-locations where feasible, should it be necessary to erect a new tower or antenna:
1. The tower shall be engineered and constructed to accommodate a minimum of three (3) providers;
 2. The applicant shall provide a letter indicating willingness to lease excess space on the facility;
 3. Respond to any requests for information from another potential shared use applicant;

4. Negotiate in good faith and allow for leased shared use, provided it can be demonstrated that it is technically practicable, and;
 5. Make no more than a reasonable charge, based upon fair market value, for a shared use lease.
- I. Applications for collocation and/or maintenance on existing wireless communication equipment in Elba Township do not require special land use or site plan approval if the existing wireless communication structure or wireless communications compound satisfies the following criteria. Confirmation that these criteria are satisfied shall be determined by a review by the Township and/or written certification by the Township Engineer. Review fees shall not exceed the Township's actual, reasonable costs to review and process the application, or \$1000.00, whichever is less. The Township shall notify the applicant in writing within the fourteen (14) day period if there is any additional information needed to make the application complete, and specifically identify the information necessary to make the application complete, including any fee necessary for review. If no notice is sent to the applicant within the fourteen (14) day period, the application shall be deemed to be complete. The Township shall complete its review and take action on the application within sixty (60) calendar days after the date that the application is considered to be complete. The application shall be deemed approved if the Township takes no final action within this time period.
1. The applicant shall submit a site plan and a written application, which shall include an explanation of the design characteristics.
 2. The equipment will be installed on an existing wireless telecommunications support structure or in an existing equipment compound;
 3. The existing structure or existing equipment compound complies with the Elba Township Zoning Ordinance and was approved by Elba Township;
 4. The proposed co-location will not increase the overall height of the support structure by more than 20 feet or 10% of the original height, whichever is greater; or increase the width of the structure by more than the minimum necessary to permit collocation; or increase the area of the existing equipment compound to greater than 2,500 square feet;

- J. Special land use approval of wireless communication equipment is required if: the equipment will be co-located on an existing tower within an existing compound which support structure existing in the equipment compound is in compliance with the Township's zoning ordinance or was approved by the Planning Commission, but which co-location:
1. Increases the overall height of the structure by more than twenty (20) feet or 10% of its original height, whichever is greater; or
 2. Increases the width of wireless communications support structure by more than the minimum necessary to permit co-location; or
 3. Increases the area of the existing equipment compound to greater than 2,500 square feet.

The application will be reviewed by the Township to determine whether the application is complete. Review fees shall not exceed the Township's actual, reasonable costs to review and process the application, or \$1000.00, whichever is less. The Township shall notify the applicant in writing within the fourteen (14) day period if there is any additional information needed to make the application complete, and specifically identify the information necessary to make the application complete, including any fee necessary for review. If no notice is sent to the applicant within the fourteen (14) day period, the application shall be deemed to be complete. The Township shall complete its review and take action on the application within sixty (60) calendar days after the date that the application is considered to be complete. The application shall be deemed approved if the Township takes no final action within this time period.

- K. The applicant shall agree to indemnify and hold Elba Township harmless against any and all liability, claims, suits, losses, costs, and legal fees caused by, arising out of, or resulting from any negligent act or omission in the construction or operation of the tower.
- L. A condition of every approval of a new communication tower shall have adequate provision for the removal of all of the facility by users and owners upon the determination that it has not been used for 180 days or more. Removal includes the proper receipt of a

demolition permit from the Zoning Administrator. Restoration of the site will be made to its original condition.

- M. No later than January 2nd of each year, the applicant shall provide to the Township on an annual basis an inspection report from a licensed engineer confirming: (1) the continued structural integrity of the facility in accordance with the applicable standards; and (2) that the facility meets those standards imposed by the Federal Communications Commission for radio frequency emissions. A notice of these conditions shall be placed on the site plans. The Planning Commission shall be responsible for obtaining this information.

SECTION 2. REPEAL OF CONFLICTING PROVISIONS

All resolutions, ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

SECTION 3. SEVERABILITY

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 4. PUBLICATION

This Ordinance shall be filed with the Elba Township Clerk and a notice of ordinance adoption shall be published in a newspaper of general circulation in the Township of Elba within fifteen (15) days after its adoption. A copy of this Amendment may be purchased or inspected at the Elba Township Clerk's Office during regular Township business hours.

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect seven (7) days after the date of publication of a true copy or summary thereof in a newspaper circulating within the Township of Elba, as provided by Section 4.

CERTIFICATE OF TOWNSHIP CLERK

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of Elba Township, Lapeer County, Michigan, at a meeting held on the 8th day of September, 2014.

I hereby further certify that the following Township Board members were present at the meeting: Michael Boskee, Bonnie Wilcox, Rena Fountain, Michael Stockman, Nina Suter, Timothy Lintz and Robert Nelson.

and the following Township Board Members were absent: None.

I further certify that Member Lintz moved for the adoption of the Ordinance, and that motion was supported by Member Stockman.

I further certify that the following Elba Township Board Members voted for the adoption of the Ordinance: Stockman, Suter, Boskee, Wilcox, Fountain, Lintz, and Nelson.

and that the following ELBA Township Board members voted against adoption of the Ordinance: None



Rena Fountain,
Elba Township Clerk

CERTIFICATE OF PUBLICATION

I, Rena Fountain, the Township Clerk of Elba Township do hereby certify that on September 20, 2014, the foregoing Ordinance, or Summary of the Ordinance, was duly published in a newspaper having general circulation within said Township.



Rena Fountain,
Elba Township Clerk

ELBA TOWNSHIP
LAPEER COUNTY, MICHIGAN

ORDINANCE NO. 200.015

AMENDMENT OF ELBA TOWNSHIP ZONING ORDINANCE

AN ORDINANCE amending the Elba Township Zoning Ordinance, being Ordinance No. 200, of the Elba Township Ordinances, as amended, providing for the expansion of nonconforming buildings in certain circumstances, and repealing any and all Ordinances and/or Resolutions in conflict therewith.

THE TOWNSHIP BOARD OF THE TOWNSHIP OF ELBA, LAPEER COUNTY, MICHIGAN, ORDAINS:

SECTION 1 - AMENDMENTS

The Elba Township Zoning Ordinance, being Ordinance No. 200 of the Elba Township Ordinances, as amended, is hereby further amended as follows:

A. Section 16.01 (Continued Use Permitted) is hereby repealed in its entirety and replaced with the following provision:

Within the districts established by this Ordinance there exists lots, structures, and uses of land and structures which were lawful prior to the adoption of this Ordinance. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district, except in those limited instances permitted by this Article XVI.

B. Section 16.03 (Nonconforming Structures) shall be repealed in its entirety and replaced by the following provision:

Where a lawful structure exists at the effective date of adoption of this Ordinance that could not be built under the terms of this Ordinance, such structure may be continued so long as it remains otherwise lawful, subject to the following provision:

1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity except for structures which comply with the requirements of this provision. A nonconforming structure may be enlarged or altered provided that:
 - a. The enlargement or alteration does not encroach any further into the required setbacks as the existing nonconforming structure; and
 - b. The enlargement or alteration remains set back at least five (5) feet from the side lot line; and
 - c. The enlargement or alteration remains set back at least five (5) feet from the rear lot line; and
 - d. The enlargement or alteration remains set back at least five (5) feet from the established road edge.All enlargements and alterations must otherwise comply with the provisions of this Ordinance.
2. Should such nonconforming structure be destroyed by any means to an extent of seventy-five (75%) percent of its value, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
3. Should such structure be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

SECTION 2. REPEAL OF CONFLICTING PROVISIONS

All resolutions, ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

SECTION 3. SEVERABILITY

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 4. PUBLICATION

This Ordinance shall be filed with the Elba Township Clerk and a notice of ordinance adoption shall be published in a newspaper of general circulation in the Township of Elba within fifteen (15) days after its adoption. A copy of this Amendment may be purchased or inspected at the Elba Township Clerk's Office during regular Township business hours.

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect seven (7) days after the date of publication of a true copy or summary thereof in a newspaper circulating within the Township of Elba, as provided by Section 4.

CERTIFICATE OF TOWNSHIP CLERK

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of Elba Township, Lapeer County, Michigan, at a meeting held on the 26th day of Janurary, A.D., 2015.

I hereby further certify that the following Township Board members were present at the meeting:

Michael Boskee, Bonnie Wilcox, Rena Fountain, Timothy Lintz, Robert Nelson, Michael Stockman and Nina Suter


and the following Township Board Members were absent:

None

I further certify that Member Wilcox moved for the adoption of the Ordinance, and that motion was supported by Member Suter.

I further certify that the following Elba Township Board Members voted for the adoption of the Ordinance: Stockman, Suter, Boskee, Wilcox, Fountain.

and that the following ELBA Township Board members voted against adoption of the Ordinance: Lintz, Nelson.



Rena Fountain,
Elba Township Clerk

CERTIFICATE OF PUBLICATION

I, Rena Fountain, the Township Clerk of Elba Township do hereby certify that on February 8th 2015, the foregoing Ordinance, or Summary of the Ordinance, was duly published in a newspaper having general circulation within said Township.



Rena Fountain,
Elba Township Clerk

Please publish Sunday January 4th, 2015

NOTICE OF PUBLIC HEARING

THE ELBA TOWNSHIP PLANNING COMMISSION WILL HOLD A PUBLIC HEARING ON TUESDAY, JANUARY 20TH AT 7:00 P.M. THIS MEETING WILL BE HELD AT THE ELBA TOWNSHIP HALL, 4717 LIPPINCOTT RD., LAPEER, MI 48446. THE PURPOSE OF THIS HEARING WILL BE TO CONSIDER A PROPOSED DRAFT ZONING ORDINANCE AMENDMENT

COPIES OF THE PROPOSED DRAFT ORDINANCE ARE AVAILABLE FOR REVIEW, IN THE ELBA TOWNSHIP CLERK'S OFFICE DURING REGULAR OFFICE HOURS. INTERESTED PARTIES ARE ENCOURAGED TO ATTEND THIS PUBLIC HEARING EITHER TO MAKE COMMENT OR INQUIRY. WRITTEN COMMENTS MAY BE SUBMITTED TO THE CLERK'S OFFICE PRIOR TO THE HEARING. SHOULD THERE BE NEED OF FURTHER INFORMATION, CONTACT THE CLERK'S OFFICE AT (810) 664-2332.

THIS NOTICE IS POSTED IN COMPLIANCE WITH THE OPEN MEETINGS ACT (PA 267 OF 1976 AS AMENDED, MCLA 41.72A (2)(3) AND THE AMERICANS WITH DISABILITIES ACT (ADA). ALL REASONABLE, NECESSARY AUXILLARY ACCOMODATIONS WILL BE PROVIDED BY THE CLERK'S OFFICE UPON WRITTEN REQUEST.

RENA FOUNTAIN
ELBA TOWNSHIP CLERK

ELBA TOWNSHIP ORDINANCES

(Lapeer County)



**(Revised 09/14/2007
Printed 12/29/2008)**

(updated -2012)

(updated -2013)

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TOWNSHIP OF ELBA
County of Lapeer

JUNKYARD ORDINANCE
ORDINANCE NO. 6

At a regular meeting of the Elba Township Board on September 12, 1955, the following resolution was offered by Kenneth Bullock, and seconded by Orville Pratt:

BE IT RESOLVED that the Township Board, pursuant to Act No. 12 Public Acts of Michigan, 1929, as amended by Act No. 34 Public Acts of Michigan, 1935, adopt the following regulations pertaining to Junkyards:

Section 1.

- A. A Junk Dealer is hereby defined to be any person, firm, association or corporation who shall conduct or maintain any building, structure, yard or place for keeping or storing or any person who deals in, buys or sells any hides, old or used material of any kind including cloth, rags, paper rubbish, rubber, bottles, iron, steel, brass, copper, or any other metals or old boxes, cartons, crates or other refuse material or who deals in or maintains any structure, yard, or premises for the dismantling, wrecking, or disposing of the salvage material of automobiles, or other machinery.
- B. The word "Person" whenever used in these regulations, shall be held and construed to mean and include one or more persons, firms, co-partnerships, corporations, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves or by servant, agent or employee. All persons who violate any of the provisions of these regulations, whether as owner or as agent, servant, or employee shall be liable as principals.

Section 2.

No person, directly or indirectly, himself or by his clerk, agent or employee shall hereafter engage in the business of a Junk Dealer or the operation of a Junkyard, within the corporate limits of the Township of Elba without first having obtained a license from the Township of Elba.

Section 3.

Applications for a Junk Dealer's license shall be made in writing to the Township Board and filed with the Township Clerk. Such application shall contain the name and address of the applicant, the location where the business is to be carried on, owner of the real estate on which the business is to be conducted, previous experience as a Junk Dealer, and other such information as may be deemed necessary for the proper enforcement of the provisions of these regulations.

Section 4.

On receiving such application, the Township Board shall consider the application and if the Board decides the premises a proper and suitable location for the business to be conducted thereon, and the applicant or applicants suitable persons to conduct such business, the Township Board may, by majority vote, issue such license; but if in the judgment of the Township Board, the premises shall not be suitable or the applicant or applicants not be suitable and proper persons to conduct such business, the Board shall deny the application.

Section 5.

The applicant, before issuance of such license, shall obtain a permit from the Zoning Administrator, it being the intention of these regulations that the issuance of a license hereunder shall be subject to the Township Zoning Ordinance.

Section 6.

- A. A Junkyard, shop or place for the dismantling of automobiles, trucks and other motor vehicles, or machinery, shall be conducted as not to create a nuisance by reason of noise or _____ odors or fumes. There shall be no burning whatsoever, other than by the use of cutting torches, (provided that automobile and truck bodies may be burned out after obtaining from the Township Board a permit to do so at such times and upon such conditions as the Board may authorize. There shall be no pounding or hammering between the hours of six (6) p.m. and eight (8) a.m. There shall be no dismantling or burning whatsoever on Sundays.
- B. The premises on which the operation of a Junkyard shall be conducted shall be enclosed by a properly constructed board or sheet metal fence, not less than eight feet high. The boards to be not less than six (6) inches wide and spaced not more than one (1) inch apart; provided that the Township Board may, in its discretion, require fencing on three sides only.
- C. The fence shall not be used for advertising or as billboards, other than a suitable sign, showing the name of the person and the business conducted on the premises. All grass and weeds shall be kept closely cut for a width of ten (10) feet on the outside of the enclosed fence.

Section 7.

No premises shall be licensed hereunder as a Junkyard nearer than two hundred (200) feet from the highway, nor nearer than ten (10) feet from the side property line.

Section 8.

The Township Board, through its officers, shall have the right at all reasonable times during business hours to inspect the licensed premises. In the event the business conducted on the licensed premises shall become a nuisance, or if these regulations are disregarded, the Township Board may rescind such license upon written complaint, and said Junkyard shall cease to operate until such evils are corrected, or upon such terms and conditions in its discretion may require;

Provided that before rescinding such license, the licensee shall be informed of the complaint against him and shall be given a reasonable opportunity to be heard thereon.

Section 9.

Applications for a Junk Dealer's license shall be accompanied by the annual license fee in the amount of Twenty-five (\$25.00) Dollars for the year ending on June 30; and if such license shall designate a particular place or location where such business may be conducted, then it shall be unlawful for any licensee to engage in such business in any place other than that designated in such license. No license shall be transferred or assigned.

Section 10.

No Junk Dealer shall receive or take junk or automobiles, motor vehicles, trucks or other machinery, by purchase or otherwise, from any minor without the consent of such minor's parents or guardian, nor from any intoxicated person, or from any person known by reputation or suspect of being a thief.

Section 11.

Every Junk Dealer shall keep a record of all items, goods, and merchandise received, purchased and sold and such records and the premises of every Junk Dealer shall be open to the inspection of all Police and Health Officials at all reasonable hours.

Section 12.

Every licensee hereunder shall comply with all State laws and regulations.

Section 13.

If any section, sub-section, clause or phrase of these regulations shall for any reason be held void, the remaining provisions hereof shall not be affected thereby.

Section 14.

If any person, firm, or corporation shall violate or fail to comply with any of the terms of these regulations, he shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Ten (\$10.00) Dollars or more than One Hundred (\$100.00) Dollars and costs of prosecution, or by imprisonment in the County Jail not to exceed ninety (90) days or both such fine and imprisonment in the discretion of the Court.

Section 15.

These regulations shall be in full force and effect ten (10) days from and after the adoption of this resolution, and shall be posted in three (3) conspicuous places in the Township within five (5) days after adoption of this resolution.

The above resolution was adopted on the 12th day of September, 1955, by the following vote:

YEAS: Terry, Hayden, Bullock, Fernee, Taylor, Pratt, Mason.

NAYS: None.

I hereby certify that on the 15th day of September, 1955, I posted a copy of the above resolution in each of the following locations:

S.E. corner Elba and Davison Roads.
S. side of Stewart Road at Hadley Road.
Bulletin Board on the front of the Town Hall.

Signed:

DOROTHY E. MASON
Elba Twp. Clerk
Section 6. A. was amended October 28, 1957.

NOTICE

**NOTICE OF ADOPTION OF AMENDMENT TO SECTION 6. B. OF ELBA TOWNSHIP
JUNKYARD ORDINANCE #6.**

At the regular meeting of the Elba Township Board held on Monday, February 14, 1977, at 8:00 p.m. in the Elba Township Hall, the following motion was made by Trustee Tallman and supported by Trustee Brownrigg:

THE TOWNSHIP OF ELBA, LAPEER COUNTY MICHIGAN, ORDAINS:

Section 6. B. of the Elba Township Junk yard Ordinance #6 is hereby amended to read:

The premises on which the operations of a Junkyard shall be conducted shall be enclosed by a properly constructed board, sheet metal, or plastic fence, or combination thereof, not less than eight (8) feet high. In a board fence, the boards to be not less than six (6) inches wide and spaced not more than one (1) inch apart; a sheet metal fence to be solid; plastic fencing materials to be so installed to be obscuring from all directions. PROVIDED, that the Township Board may, in its discretion, require fencing on three (3) sides only when the unfenced side is otherwise obscured by nearby buildings without windows or by natural foliage.

This amendment shall become effective on April 1, 1977.

YEAS: Trustees Reamer, Tallman, Brownrigg, Lindsay, Purvis, and Sullivan.

NAYS: None.

**MOTION CARRIED AND AMENDMENT TO SECTION 6. B. OF ELBA TOWNSHIP
JUNKYARD ORDINANCE NO. 6 ADOPTED.**

TOWNSHIP OF ELBA
County of Lapeer

LIQUOR CONTROL ORDINANCE
ORDINANCE NO. 18

An Ordinance to secure the public peace, health and safety of the residents and property owners of the Township of Elba, Lapeer County, Michigan, a municipal corporation, for the regulation of alcoholic liquor traffic within said Township, through the enforcement of the Michigan Liquor Control Act of the State of Michigan within said Township, to provide penalties for the violation of said ordinance, and to repeal all ordinances and parts of ordinances in conflict therewith.

THE TOWNSHIP BOARD OF ELBA TOWNSHIP, LAPEER COUNTY, MICHIGAN,
ORDAINS:

Section 1. Title.

This Ordinance shall be known and cited as the Elba Township Liquor Control Ordinance.

Section 2. Liquor Control Act of the State of Michigan.

All alcoholic liquor traffic, including among other things, the manufacture, sale, offer for sale, storage for sale, possession and/or transportation thereof within Elba Township, Lapeer County, Michigan, shall comply with the provisions of the Michigan Liquor Control Act, being Act No. 8 of the Michigan Public Acts of 1933, as amended.

Section 3. Enforcement.

For the purpose of the enforcement of said Michigan Liquor Control Act within said Township, there is hereby established a Liquor Control Enforcement Department with full power, authority, and duty to see that the provisions of said Act and the rules and regulations of the Michigan Liquor Control Commission, adopted pursuant to said act, are enforced within said Township. Such Department shall consist of not less than one Constable or Deputy Sheriff appointed by the Township Board and such other personnel as the Township Board may, in its discretion, appoint. The personnel in such Department shall be entitled to such compensation as the Township Board may determine. Such Department or a member thereof shall be available at all times to investigate complaints received under this Ordinance, and enforce the provisions hereof.

Section 4. Inspection.

The Township Liquor Control Enforcement Department shall inspect not less than monthly, all liquor establishments licensed under the Liquor Control Act of the State of Michigan and report the results of all inspections promptly to the Township Board. The Township Liquor Control Enforcement Department shall further promptly investigate all complaints received by it concerning violations of the Michigan Liquor Control Act, or improper operations and practices concerning alcoholic liquor traffic within the Township, and report the same to the Township Board and, where appropriate under the Michigan Liquor Control Act, to the Michigan Liquor Control Commission for appropriate proceedings against the violator.

All Inspectors shall carry appropriate cards issued by the Township Clerk, clearly identifying them as Township Liquor Control Inspectors and shall present said cards to the owner or manager of every place inspected by them when making an inspection, upon demand for identification by such owner or manager.

Inspectors shall have the right to inspect any place in the Township where alcoholic liquor is manufactured, sold, offered for sale, kept for sale, possessed or transported, or where the Inspector suspects the same is being thus manufactured, sold, offered for sale, kept for sale, possessed, or transported. Whenever possible, all inspection reports shall be made on Liquor Law Enforcement Inspection forms furnished by the Michigan Liquor Control Commission or on similar forms otherwise obtained by the Township Liquor Control Enforcement Department.

Section 5. Appropriation.

For the purpose of carrying out the provisions of this Ordinance and establishing the Liquor Control Enforcement Department herein provided for the Township Board hereby appropriates the sum of Seven Hundred Fifty (\$750.00) Dollars for such use and is hereby authorized and directed to annually appropriate such an amount as will, in its discretion, be sufficient to maintain and operate such Liquor Control Enforcement Department for the ensuing fiscal year of the Township, not exceeding, however, ten (10) mills of the assessed valuation of the Township in any one year for vehicles, apparatus and equipment and housing for the same, and not exceeding 2 ½ (two and one half) mills of the assessed valuation of the Township per year for the maintenance and operation of the Department.

Section 6. Penalties.

Any person, other than persons required to be licensed under the Michigan Liquor Control Act, who shall violate any part of the provisions of this Ordinance shall be guilty of a misdemeanor.

Any licensee who shall violate any of the provisions of the Michigan Liquor Control Act or any rule or regulation of the Michigan Liquor Control Commission promulgated thereunder, or who shall violate any of the provisions of this Ordinance, and any person who shall prohibit or interfere with the authorized inspection of a member of the Township Liquor Control Enforcement Department shall be guilty of a misdemeanor, punishable by imprisonment in the County Jail not more than ninety (90) days or by a fine of not more than One Hundred (\$100.00) Dollars, or both, in the discretion of the Court. Each day that a violation continues to exist shall constitute a separate offense.

It is the intent of the Township Board that the Court, in imposing punishment under the provisions of this Ordinance, should discriminate between casual or slight violations and habitual sales of alcoholic liquor or attempts to commercialize violations of this Ordinance or any of the rules or regulations of the Michigan Liquor Control Commission promulgated under the Michigan Liquor Control Act.

Section 7. Effective Date.

This Ordinance shall take effect on the 18th day of March, 1960. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Signed:

**RICHARD W. HATHAWAY
Township Clerk
Elba Township.**

TOWNSHIP OF ELBA
SUBDIVISION REGULATIONS
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**TOWNSHIP OF ELBA
County of Lapeer**

**SUBDIVISION REGULATIONS ORDINANCE
ORDINANCE NO. 20**

An ordinance enacted under Act 288, Public Acts of 1967, as amended, and Act 168, Public Acts of 1959, as amended, of the State of Michigan, establishing regulations governing the subdivision of land: providing standards, procedures and rules for the preparation and filing of plats, and to provide for preliminary and final approval or rejection of such plats by the Township of Elba, Lapeer County, Michigan.

THE TOWNSHIP OF ELBA ORDAINS:

ARTICLE I – GENERAL

Section 100. Short Title.

This Ordinance shall be known and may be designated as the "Township of Elba Subdivision Regulations Ordinance."

Section 101. Purposes.

The purposes of this Ordinance are to provide for the orderly growth and harmonious development of the community; to secure adequate traffic circulation through coordinated street systems with relation to major thoroughfares, adjoining subdivisions, and public facilities; to achieve individual property lots of maximum utility and livability; to secure adequate provisions for water supply, drainage and sanitary sewerage, and other health requirements; to secure adequate provisions for recreational areas, school sites, and other public facilities; to provide a reasonable and proper basis for the design and construction of residential, commercial or industrial projects having site improvements including sanitary sewer, storm drainage, water main, site grading and paving; and, to provide logical procedures for the achievement of these purposes.

Section 102. Legal Basis.

This Ordinance is enacted pursuant to the statutory authority granted by the Subdivision Control Act of 1967, Act 288, P.A. 1967, as amended; and Act 168, P.A., 1959, as amended.

Section 103. Scope.

This Ordinance shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to the effective date of this Ordinance except for the further dividing of lots. Nor is it intended by this Ordinance to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, or with private restrictions placed upon property by deed, covenant, or other private agreements, or with restrictive covenants running with the land to which the Township is a party. Where this Ordinance imposes a greater

restriction upon land than is imposed or required by such existing provision of any other ordinance of this Township, the provisions of this Ordinance shall control.

Section 104. Further Division of Lots.

Pursuant to the provisions of Section 263 of Act 288 of P.A. of 1967, as amended, any lot, outlot, or other parcel in a recorded plat may be further partitioned or divided so long as all the parts so portioned or divided not total more than four (4) parts and shall meet the following minimums:

- A. That the minimum lot size of any lot, outlot or other parcel of land in a recorded plat shall be in accordance with the applicable requirements of Elba Township Zoning Ordinance No. 16, as amended, and/or such successor zoning ordinance as may be hereafter established by the Township of Elba, except when the partitioning or dividing of such land is for the immediate development and use of such divided or partitioned land in conjunction with the adjoining lot, outlot or parcel. In that event, any portion of said lot, outlot or parcel which does not meet the minimum requirements of said zoning ordinance after division or partition shall not be developed or used except in conjunction with the lot, outlot or parcel immediately adjoining same.
- B. That the applicant shall present a written instrument fully executed in form legally sufficient for recording with the Lapeer County Register of Deeds to the Elba Township Board for its written approval thereon prior to recording. Such instrument shall contain the legal description of the partition or division of the parcel described therein. If the division or partition of the parcel will result in a minimum lot size less than the requirements of the Elba Township Zoning Ordinance No. 16, as amended, or its successor ordinance, if any, then the applicant shall submit in addition a fully executed affidavit in form legally sufficient for recording with the Lapeer County Register of Deeds and signed by all persons who have any legal or equitable interest in the parcel acknowledging that they understand the partitioned or divided parcel or parcels may not thereafter be developed or used separately-but only in conjunction with the adjoining parcel or parcels of land.
- C. Any such division shall be permitted only after a resolution permitting such has been passed by the Township Board. The Township Board may hold a public hearing where it is felt that such would be desirable or necessary.

ARTICLE II – DEFINITIONS

Section 200. Definitions.

For the purpose of this Ordinance, certain words, terms and phrases shall be defined as follows:

1. All terms as defined in the Subdivision Control Act of 1967 shall control in this Ordinance unless specifically defined hereinafter in this ARTICLE II.
2. **BLOCK:** Property abutting one side of a street and lying between the two nearest intersecting streets, or between the nearest such street and railroad right-of-way, unsubdivided acreage, river or live stream, or between any of the foregoing and any other barrier to the continuity of development.

3. **BUILDING LINE OR SETBACK LINE:** A line parallel to a street right-of-way line, established on a parcel of land or on a lot for the purpose of prohibiting construction of a building between such line and a right-of-way, other public area or the edge of a stream or river bank.
4. **CLERK:** The Clerk of the Township of Elba.
5. **COMMISSION:** The Planning Commission of the Township of Elba.
6. **COMPREHENSIVE DEVELOPMENT PLAN OR MASTER PLAN:** The comprehensive land use plan for the Municipality, including graphic and written proposals indicating the general locations recommended for the streets, parks, schools, public buildings, zoning districts, and all physical developments of the Municipality, and includes any unit or part of such plan separately adopted, and any amendments to such plan or parts thereof recommended and/or adopted by the Planning Commission and the Governing Body.
7. **EASEMENT:** A grant by the owner of the use of land by the public, a corporation, or persons, for specific uses and purposes, to be designated as a "public" or "private" easement depending on the nature of the use.
8. **FLOODPLAIN:** That area of land adjoining the channel of a river, stream, water course, lake or other similar body of water which will be inundated by a flood which can reasonably be expected in Lapeer County.
9. **GOVERNING BODY:** The Township Board of the Township of Elba.
10. **IMPROVEMENTS:** Grading, street surfacing, curb and gutter, sidewalks, crosswalks, water mains and lines, sanitary sewers, culverts, bridges, utilities, and other additions to the natural state of land which increases its value, utility or habitability.
11. **LOT:** A measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.
12. **MAJOR STREETS OR THOROUGHFARE PLAN:** That part of the Comprehensive or Master Plan which sets forth the location, alignment and dimensions of existing and proposed streets and thoroughfares.
13. **MUNICIPALITY:** The Township of Elba, Lapeer County, Michigan.
14. **MUNICIPAL ENGINEER OR ENGINEER:** The staff engineer or consulting engineer of the Municipality.
15. **MUNICIPAL PLANNER OR PLANNER:** The staff planner or consulting planner of the Municipality.
16. **PERFORMANCE GUARANTEE:** Any security including performance bonds, escrow agreements, and other similar collateral or surety agreements which may be accepted by the Township Board as a guarantee that required subdivision improvements will be made by the developer.

17. **PLAT:** A chart of a subdivision of land.
- A. **Preliminary Plat** – A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration prepared in conformance with the Subdivision Control Act and this Ordinance.
 - B. **Final Plat** – A map of all or part of a subdivision providing substantial conformance to the Preliminary Plat of the Subdivision prepared in conformance with the requirements of the Subdivision Control Act and this Ordinance, and suitable for recording by the County Register of Deeds.
18. **PARCEL (or TRACT):** A continuous area or acreage of land which can be described as provided for in the Subdivision Control Act.
19. **PROPRIETOR:** A natural person, firm, association, partnership, corporation, or combination of any of them which may hold any ownership interest in land, whether recorded or not.
20. **R-O-W PLAN:** That plan filed by the unit of government which has jurisdiction that indicates land reserved, used or to be used for a street, highway, walkway or other public purposes.
21. **SECRETARY:** The Secretary of the Elba Township Planning Commission.
22. **SHALL and MAY:** The word “shall” is mandatory, and the word “may” is permissive.
23. **STREET:** Any avenue, boulevard, road, land, parkway viaduct or other way which is an existing state, county or municipal roadway, or any road or way shown in a plat heretofore approved pursuant to law. A street, as defined above, includes the land between the right-of-way lines, whether improved or unimproved and may comprise pavement, shoulders, gutters, sidewalks, parking areas and lawns.
- A. **Major Thoroughfare** – An arterial street of great continuity which is intended to serve as a large volume traffic way for both the immediate municipality area and region beyond and may be designated in the Township Thoroughfare Plan as a major thoroughfare, parkway, expressway, or equivalent term to identify those streets comprising the basic structure of the street plan.
 - B. **Collector Street** – A street intended to serve as a major means of access from minor streets to major thoroughfares, including principal entrance streets to large scale developments.
 - C. **Minor Street** – A street of limited continuity used primarily for access to abutting residential properties.
 - D. **Marginal Access Street** – A minor street parallel to and adjacent to a major thoroughfare which provides access to abutting properties and protection from through traffic.
 - E. **Boulevard Street** – A street developed in two one-way pavements separated by a median.

- F. Turn-Around – A short boulevard street permanently terminated by a vehicular turn-around.
 - G. Cul-de-Sac Street – A short minor street having one end permanently terminated by a vehicular turn-around.
24. **SUBDIVISION CONTROL ACT:** The Subdivision Control Act, Michigan Public Act No. 288 of 1967, as amended.
 25. **SUBDIVISION OR SUBDIVIDING:** The partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or building development, where the act of division creates five or more parcels of land, each of which is ten (10) acres or less in area, are created by successive divisions within a period of ten (10) years.
 26. **WORDS:** Singular words shall include the plural, and masculine words shall include the feminine and neuter.
 27. **ZONING ORDINANCE:** The Township of Elba Zoning Ordinance, as amended.

ARTICLE III – INITIAL INVESTIGATION

1. Prior to the preparation of a preliminary plat, it is suggested that the proprietor meet informally with the Township Planning Commission to investigate the procedures and standards of the Municipality with reference to this Subdivision Ordinance and with the proposals of the Comprehensive Development Plan as they affect the area in which the proposed subdivision is located.

The meeting may include discussions of the following:

- A. Availability of copies of the Township Zoning Ordinance, Comprehensive Development Plan, Subdivision Regulations, engineering specifications, and other similar ordinances or controls relative to the subdivision and improvement of land.
 - B. The relationship of the proposed subdivision with respect to adjacent land uses and to Major Thoroughfares and plans for widening of thoroughfares.
 - C. Adequacy of existing schools and the adequacy of public open spaces including parks and playgrounds to serve the proposed subdivision.
 - D. Availability, standards and adequacy of sewage disposal, water supply and drainage within the Township.
2. The developer, at his option, may submit a plan showing the proposed development of the subdivision in schematic form, including the area of first development. Such a sketch plan might include: general layout of streets and lots; existing characteristics and conditions of the site, and general area set aside for schools, parks and other community facilities.

3. Nothing in this section, however, shall be so construed as to require any pre-application contact and review at this stage shall not constitute any approval of the proposed preliminary plat but shall serve primarily as guidance to the prospective proprietor and the municipality. Any proprietor may elect to begin subdividing by submitting a preliminary plat in accordance with the provisions of these regulations.

ARTICLE IV – PRELIMINARY PLAT

The preparation of a subdivision for platting shall be carried out through two phases: Preliminary Plat and Final Plat, all in accordance with the procedure in Article IV and Article V.

Section 400. Filing.

- A. The proprietor shall submit ten (10) copies of the preliminary plat of the proposed subdivision, together with a copy of proof of ownership to the Township Clerk at least ten (10) days before a meeting of the Planning Commission. The Clerk shall request that the preliminary plat be placed on the next agenda of the Planning Commission.
- B. The preliminary plat shall be prepared in accordance with Section 111 to Section 119 of the Subdivision Act and in accordance with the requirements of this Ordinance. It shall not be necessary that initial submissions be prepared by and sealed by a surveyor, provided that properly sealed copies of the preliminary plat are filed with the Township prior to approval by the Board.
- C. The Clerk shall check the proposed plat for completeness. Should any of the data required in the Subdivision Control Act or in this Ordinance be omitted from the proposed plat, the Clerk shall be directed to inform the proprietor of the data required and suggest that the application not be filed until the required data is received.

Section 401. Identification and Description.

- A. Proposed name of subdivision.
- B. Location by Section, Town and Range, or by other legal description.
- C. Names and addresses of the proprietor, owner and the planner, designer, engineer or surveyor who designed the subdivision layout. The proprietor shall also indicate his interest in the land.
- D. Date, Northpoint and scale of plat, 1" = 100' as minimum acceptable scale.

Section 402. Existing Conditions.

- A. An over-all area map at a scale of not less than 1" = 2,000' showing the relationship of the subdivision to its surroundings such as section lines and/or major streets or collector streets shall be provided.
- B. Boundary line of proposed subdivision, section or corporation lines within or adjacent to the tract and over-all property dimensions.

- C. Property lines of contiguous adjacent tracts of subdivided and unsubdivided land up to three (300) hundred feet are to be shown in relation to the tract being proposed for subdivision including those located across abutting roads.
- D. Location, widths, and names of existing or prior platted streets and private streets, public areas and public easements within or adjacent to the tract being proposed for subdivision, including those located across abutting roads.
- E. Location and water levels of lakes and swamps, and locations and directions of flow of streams and surface drainage ways.
- F. Location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the tract being proposed for subdivision.
- G. Topography drawn as contours with an interval of at least two (2) feet in elevation, except if grade exceeds five (5) percent, the contour interval shall be five (5) feet. Topography should be based on United States Geological Survey Datum.
- H. The appropriate school board or school board superintendent shall be informed and made aware of the proposed preliminary plat by the proprietor. Acknowledgment of receipt of a letter or document by the school board or superintendent of the school district from the proprietor indicating the board or district's awareness of the proprietor's intentions shall be submitted to the Planning Commission as part of the preliminary plat.

Section 403. Proposed Conditions.

- A. Layout of streets indicating proposed street names, right-of-way widths, and connections with adjoining platted streets and also the widths and location of alleys, existing easements and public walkways.
- B. Layout, numbers and dimensions of lots, including building setback lines showing dimensions.
- C. Indication of parcels of land intended to be dedicated or set aside for public use or for the use of property owners in the subdivision.
- D. An indication of the status of the petitioner's ownership, and existing and proposed use of any parcels identified as "excepted" on the preliminary plat. If the proprietor has an interest or owns any parcel so identified as "excepted," the preliminary plat shall indicate how this property could be developed in accordance with the requirements of the existing zoning district in which it is located and with an acceptable relationship to the layout of the proposed preliminary plat.
- E. An indication of the required underground utilities.
- F. Proposed utility installations –

1. Sewage disposal, if proposed by individual systems: Preliminary plat submittal shall include a tabulated record and a keyed map of soil percolation or other tests certified by a registered civil engineer or registered land surveyor, at the rate of one test per acre of usable land; also, a letter indicating general appraisal of soil data for septic tank operation from the County Health Department.
 2. Sewage disposal, if proposed by treatment plant: Preliminary layout of proposed system, type and capacity treatment, location of plant and outlet; subject to approval of Michigan Department of Health, County Health Department, Township Engineer, the commission and the Township Board.
 3. Water supply, if proposed by public system: Preliminary layout of proposed system, location and anticipated capacity of wells; subject to approval of Michigan Department of Health, County Health Department, Township Engineer, the Commission and the Township Board.
 4. Storm water disposal: Preliminary layout of proposed system, location and invert elevation of outlet; subject to approval of Township Engineer, the Commission and the Township Board, and, if County drains are involved, the Lapeer County Drain Commission.
 5. Subsoil drainage: Whenever there is reason to expect that any part of the tract has high water table or unstable subsoil conditions, the Preliminary Plat submittal shall include a tabulated record and a keyed map of soil borings made by and certified by a registered civil engineer, or registered land surveyor.
- G. Water areas: Plan of any proposed water areas indicating depths, normal water levels, slopes and type of bank retention; methods of controlling insects, water growths and vegetation.
- H. Proposed topo: Superimposed on the preliminary plat shall be the proposed contours at a minimum of two feet of the area including the area at least one (100) hundred feet outside of the project.
- I. Statement of intended use of the proposed plat, such as, residential single family, two-family and multiple housing; commercial; industrial; recreational; or agricultural. Also proposed sites, if any, for multi-family dwellings, shopping centers, churches, industry, and other nonpublic uses exclusive of single-family dwellings. Also, any sites proposed for parks, playgrounds, schools, or other public uses.
- J. In the case where the proprietor wishes to subdivide a given area but wishes to begin with only a portion of the total area, the preliminary plat shall include the proposed general layout for the entire area. The part which is proposed to be subdivided first shall be clearly superimposed upon the overall plan in order to illustrate clearly the method of development which the proprietor intends to follow. Each subsequent plat shall follow the same procedure until the entire area controlled by the proprietor is subdivided.
- K. If the subdivision is proposed to be developed under the Subdivision Open Space Plan, said subdivision shall meet the requirements of Section 603 of this Ordinance.

Section 404. Review by Planning Commission.

- A. The Planning Commission shall act on the preliminary plat within sixty (60) days after the preliminary plat has been placed on their agenda unless the proprietor agrees to an extension, in writing, of the time required for approval by the governing body and Planning Commission.**
- B. The Clerk shall send a notice by registered or certified mail to the owners of land immediately adjoining the property to be platted of the presentment of the preliminary plat and the time and place of the meeting of the Planning Commission to consider said preliminary plat; said notice shall be sent not less than five (5) days before the date fixed thereof. At their discretion, the Planning Commission in lieu of separate notice may advertise that a public meeting will be held at which time the proposed plat will be discussed.**
- C. Unless the Planning Commission directs to the contrary, two copies of the preliminary plat shall be transmitted to the Municipal Engineer and the Municipal Planner for their technical review and recommendation.**
- D. The Commission shall review the preliminary plat for compliance with the following:**
 - 1. Compliance with ordinances and regulations – Zoning, Building Code, sewage disposal, electrical and others.**
 - 2. Availability and adequacy of utilities.**
 - 3. Impact on schools and recreation facilities.**
 - 4. Comprehensive Plan.**
 - 5. Transportation network and surrounding land uses.**
 - 6. Objectives and policies of the Township.**
- E. The Commission shall recommend conditional approval, disapproval, or approval of the preliminary plat.**
 - 1. Should the approval be a conditional approval, the preliminary plat may be forwarded to the Governing Body.**
 - 2. Should the Commission disapprove the preliminary plat, it shall record the reasons in the minutes of the meeting. The proprietor shall be notified of the action of the Commission in writing and may request copies of the recommendations for the purpose of revision and resubmittal. A copy of the action shall also be submitted to the Township Board.**
 - 3. Should the Commission find that all conditions have been satisfactorily met, it shall give approval to the preliminary plat. The Secretary shall make a notation**

to that effect on each copy of the preliminary plat and distribute copies of same as follows:

- (a) retain one (1) copy with comments which shall become a matter of permanent record in the Commission files.
- (b) forward one (1) copy to the School Board or School Superintendent of the district having jurisdiction in the area concerned.
- (c) forward the remaining copies to the Governing Body via the Clerk's office with recommendations for approval.

Section 405. Review by Governing Body:

- A. The Governing Body will not make a recommendation on the preliminary plat until it has received the review and recommendations of the Commission. Following the receipt of such recommendations, the Governing Body shall consider the preliminary plat and shall take action on the preliminary plat within ninety (90) days of the date of filing.
- B. The proprietor shall file a valid preliminary plat with the Clerk together with a certified list of all authorities required for approval in Sections 112 through 119 of the Subdivision Act. The proprietor shall also provide approved copies of the plat to appropriate public utility agencies.
- C. Should the Governing Body approve the preliminary plat, it shall be deemed to confer upon the proprietor the right to proceed with the preparation of the final plat.
- D. The approval of the Preliminary Plat by the Governing Body is effective for a period of two (2) years. Should the final plat in whole or in part not be submitted within this time limit, the preliminary plat must again be submitted to the Planning Commission for recommendation and approval to the Governing Body. The two (2) year period may be extended if applied for by the proprietor and granted by the Governing Body in writing.
- E. No installation or construction of any improvements shall be made before the preliminary plat has received approval of the Governing Body, engineering plans have been approved by the Municipal Engineer, and any deposits required under Article VII—Improvements, of this Ordinance, have been received by the Municipality.

ARTICLE V – FINAL PLAT

Section 500. Preparation.

- A. The final plat shall comply with the provisions of the Subdivision Act.
- B. The final plat shall conform substantially to the preliminary plat as approved and it may constitute only that portion of the approved preliminary plat which the proprietor

proposed to record and develop at the time; provided, however, that such portion conforms to this Subdivision Ordinance.

- C. The proprietor shall submit as evidence of title to the Clerk, an abstract of title certified to date with the written opinion of an attorney-at-law thereon, or at the option of the proprietor, a policy of title insurance for examination in order to ascertain as to whether or not the proper parties have signed the plat.

Section 501. Final Plat Review.

- A. Five (5) Mylar or similar approved materials and three (3) paper prints of the final plat shall be filed by the proprietor with the Clerk and shall deposit such sums of money as the Governing Body may require herein or by other ordinances.
- B. The final plat shall be reviewed by the Municipal Engineer as to compliance with the approved preliminary plat and plans for utilities and other improvements.
- C. The Municipal Engineer shall notify the Governing Body of his recommendation for either approval or rejection of the final plat within ten (10) days of its date of filing.
- D. The governing body shall require the following:
 - 1. Conformance to the Comprehensive Development Plan of Elba Township.
 - 2. Proper drainage, grading and construction of approved materials of a thickness and width provided for in this ordinance and those adopted by the municipality.
 - 3. Installation of bridges and culverts where deemed necessary by the municipal engineer.
 - 4. Submission of complete plans for grading, drainage and construction as required in Articles VI, VII, VIII and IX of this ordinance.
- E. The Governing Body shall review all recommendations and take action on the final plat within twenty (20) days of its date of filing.
- F. Upon approval of the final plat by the Governing Body, the subsequent approvals shall follow the procedure set forth in the Subdivision Act. The three (3) prints of the final plat shall be forwarded: one (1) to the Clerk, one (1) to the Planning Commission, and one (1) to the Building Inspector. The five (5) Mylar copies shall be forwarded to the Clerk of the County Plat Board.
- G. Placing of required monuments and lot corner markers may be waived by the Governing Body for a period of one (1) year from the date of approval of the final plat by the Governing Body, provided:
 - 1. That monuments or other markers adequately witnessed, shall be in place at all angles and at all ends of curves in the boundaries of the subdivision; and

2. That the proprietor shall have delivered to the Clerk cash or a certified check, or irrevocable bank letter of credit running to the Municipality, whichever the proprietor selects, in amount equal to Twenty-five (\$25.00) Dollars per monument remaining to be placed plus Ten (\$10.00) Dollars per lot corner marker remaining to be placed.

Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified. If the proprietor defaults, the Governing Body shall engage a surveyor to locate the monuments and markers called for on the plat and on completion of the work shall return any unexpended balance of the deposit to the party from whom it was received.

- H. The Governing Body shall require of the proprietor as a condition of final plat approval, a deposit in the form of cash, certified check, or irrevocable bank letter of credit running to the Municipality for the full cost, as estimated by the Municipal Engineer, of the improvement of public places, other than roads and streets, and the installation of any required public sewer, water supply, and drainage facilities, to insure the completion of said improvements and facilities within a length of time agreed upon from the date of approval of the final plat by the Governing Body. The Municipality shall rebate to the proprietor, as the work progresses, amounts of any cash deposits equal to the ration of the work completed to the entire project.
- I. Two (2) copies of the proposed Subdivision Deed Restrictions or protective covenants or a statement in writing that none are proposed shall be furnished to the Governing Body to be filed with the Township copy of the final plat.

ARTICLE VI – SUBDIVISION DESIGN STANDARDS

The subdivision design layout standards set forth under this section are development guides. All final plans must be reviewed and approved by the Governing Body in accordance with this Subdivision Regulations Ordinance.

Section 600. Streets.

A. Location and Arrangement:

1. The proposed subdivision shall conform to the various elements of the Comprehensive Development Plan and shall be considered in relation to the existing and planned major thoroughfares and collector streets, and such part shall be platted in the location and width indicated on such plan. The proposed subdivision shall also conform to any state, county or local Right-of-Way plan which may be applicable to that location.
2. The street layout shall provide for continuation of local or collector streets in the adjoining subdivisions or where the adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall be extended to the boundary line of the tract to make provision for the future projection of streets into adjacent areas.
3. The street layout shall include minor streets so laid out that their use by through traffic shall be discouraged.
4. Should a proposed subdivision border on or contain an existing or proposed major thoroughfare, the Commission may require marginal access streets, reverse frontage, or such other treatment regarding acceleration, deceleration and passing lanes as may be necessary for adequate protection of residential properties and to afford separation and reduction of traffic hazards.
5. Should a proposed subdivision border on or contain a railroad, expressway or other limited access highway right-of-way, the Commission may require the location of a street approximately parallel to and on each side of such right-of-way at a distance suitable for the development of an appropriate use of the intervening land such as for parks and residential districts. Such distances shall be determined with due consideration of the minimum distance required for approach grades to future grade separation.
6. Half streets shall be prohibited, except where absolutely essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations. Wherever there exists adjacent to the tract to be subdivided, a dedicated or platted and recorded half street, the other half shall be platted.
7. Streets shall be arranged in proper relation to topography so as to result in desirable and usable lots, and safe streets with reasonable gradients.
8. Except where justified by extreme conditions, alleys and private streets will not be permitted in areas of detached single or two-family residences.

B. Right-of-way widths:

Street right-of-way widths shall conform to requirements of the Lapeer County Road Commission or at least the following requirements, whichever is greater:

1. Major Thoroughfares – In conformance with the transportation part of the Elba Township Comprehensive Plan.
2. Collector Streets – 86’.
3. Industrial Service Streets – 66’.
4. Multiple-Family Residential Streets where Platted – 66’.
5. Minor Streets (Single-Family Residential) – 66’.
6. Marginal Access Streets – 66’.
7. Boulevard Streets – 80’.
8. Turn-Around (Loop or “U”) Streets – 120’.
9. Alleys – 20’.
10. Cul-de-sac Streets – Turn Aounds
 - (a) Industrial – 66’ terminating with 75’ radius.
 - (b) Residential and Others – 66’ terminating with 70’ radius.
11. Maximum length for cul-de-sac streets shall generally be 600’. This may be exceeded subject to the approval of the Commission.

C. Street Grades:

1. Maximum – All streets, five (5%) percent, provided that where essential for reasonable development six (6%) percent may be permitted for collector and minor streets.
2. Minimum – Shall meet the standards of the Lapeer County Road Commission.

D. Vertical Alignment:

Per the specifications of the Lapeer County Road Commission.

E. Horizontal Alignment:

1. When tangent centerlines deflect from each other more than ten (10) degrees and less than ninety (90) degrees, they shall be connected by a curve with a minimum radius of:

- (a) Major thoroughfares: 800 feet.
- (b) Collector street: 500 feet.
- (c) Minor streets: 200 feet.

2. Between reverse curves there shall be a minimum tangent distance of one hundred (100') feet.

3. Also subject to the specifications of the Lapeer County Road Commission.

F. Street Intersections:

Street shall be laid out so as to intersect as nearly as possible to ninety (90) degrees. Curved streets, intersecting with major thoroughfares and collector thoroughfares shall do so with a tangent section of center line fifty (50) feet in length, measured from the right-of-way line of the major or collector thoroughfare, where said minor streets are on a curve with a radius of at least four hundred (400) feet, which tangent does not make a ninety (90) degree intersection with the thoroughfare being intersected.

G. Street Jogs:

Street jogs with centerline offsets of less than one-hundred twenty-five (125) feet shall be avoided.

H. Truck Wells:

Truck wells, and receiving and shipping depots will be so located as to provide adequate vehicular movement on the site, and shall not face directly onto a public right-of-way unless at least one hundred (100) feet from the right-of-way, and shall be subject to the review of the Lapeer County Road Commission.

I. Driveways:

All driveway locations shall be subject to regulations, recommendations and review of the Lapeer County Road Commission.

Section 601. Blocks.

Blocks with subdivisions should conform to the following standards:

A. Sizes:

- 1. Maximum length for blocks shall not exceed fourteen hundred (1,400) feet in length, except where conditions such as topography, water bodies and drainage ways may justify a greater distance.
- 2. Widths of blocks shall be determined by the condition of the layout and shall be suited to the intended layout.

B. Public Walkways:

1. Location of public walkways or crosswalks may be required by the Commission to obtain satisfactory pedestrian access to public or private facilities such as, but not limited to, schools and parks.
2. Widths of public walkways shall be at least five (5) feet and shall be in the nature of an easement for this purpose, and shall be improved with a full width concrete walk.

C. Easements:

1. Location of utility line easements shall be provided along the rear or side lot lines as necessary for utility lines.

Easements shall give access to every lot, park or public grounds. Such easements shall be a total of not less than twelve (12) feet wide.

2. Recommendations on the proposed layout of telephone and electric company easements should be sought from all of utility companies serving the area. It shall be the responsibility of the proprietor to submit copies of the preliminary plat to all appropriate public utility agencies.
3. Easements three (3) feet in width shall be provided where needed alongside lot lines so as to provide for street light dropouts. Prior to the approval of the final plat for a proposed subdivision, a statement shall be obtained from the appropriate public utility indicating that easements have been provided along specific lots. A notation shall be made on the final plat indicating: "The side lot lines between lots (indicating lot numbers) are subject to street light dropout rights granted to the Detroit Edison Company."
4. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width or construction or both as will be adequate for the purpose. Such easements shall meet the approval of the County Drain Commissioner and/or County Road Commission.
5. The Township may request an easement for fire vehicle access through properties adjacent to bodies of water.

Section 602. Lots:

Lots within subdivisions shall conform to the following standards:

A. Sizes and Shapes:

1. The lot size, width, depth and shape in any subdivision proposed for residential uses shall be appropriate for the location and the type of development contemplated.

2. Lot areas and widths shall conform to at least the minimum requirements of the Zoning Ordinance for the district in which the subdivision is proposed.
3. Building setback lines shall conform to at least the minimum requirements of the Zoning Ordinance.
4. Excessive lot depth in relation to width shall be avoided. A depth-to-width ration of not more than three (3) to one (1) shall be desirable.
5. Corner lots in residential subdivisions shall be platted at least ten (10) feet wider than the minimum width permitted by the Zoning Ordinance.
6. Lots intended for purposes other than residential use shall be specifically designed for such purposes, and shall have adequate provision for off-street parking, setbacks, and other requirements in accordance with the Zoning Ordinance.

B. Arrangement:

1. Every lot shall front or abut on a street except in those instances involving a planned development for multiple dwellings, business centers or industrial tracts where, in the judgment of the municipality, such requirements would not serve the best interests of the municipality.
2. Side lot lines shall be at right angles or radial to the street lines.
3. Residential lots abutting major thoroughfares or collector streets, where marginal access streets are not desirable or possible to attain, shall be platted with reverse frontage lots, or with side lot lines parallel to the major traffic streets, or shall be platted with extra depth to permit generous distances between building and such traffic way.
4. Lots shall have a front-to-front relationship across all streets where possible.
5. Where lots border upon bodies of water, the front yard shall be designated as that side fronting on the street.
6. Lands subject to flooding or otherwise deemed by the Planning Commission to be uninhabitable shall not be platted for residential purposes, or for uses that may in the judgment of the Planning Commission increase the danger to health, life, or property or increase the flood hazard. Such land within a subdivision shall be set aside for other uses, such as parks or other open space.
7. Where parcels of land are subdivided into unusually large lots the parcels may be divided, where feasible, so as to allow for resubdividing into smaller parcels in a logical fashion. Lot arrangements shall allow for the ultimate extension of adjacent streets through the middle of wide blocks.

Section 603. Subdivision Open Space Plan (Planned Unit Development):

The following requirements apply in addition to all other requirements of this Ordinance where a preliminary plat is filed for approval under the Subdivision Open Space Plan section of the Zoning Ordinance.

A. STATEMENT OF PRINCIPLES:

Consideration by the Commission and the Governing Body of proposed optional use of Subdivision Open Space Plan shall reflect the following basic principles:

1. The Subdivision Open Space section of the Zoning Ordinance provides an optional method of subdividing property, and approval of any Subdivision Open Space Plan is subject to the discretion of the Governing Body.
2. Particular attention shall be given to the effect of a Subdivision Open Space Plan upon the immediate area, where the character of that area has been established by previous development. Consideration shall be given by the Commission and the Governing Body to the benefits to be derived by the residents of the proposed subdivision and the Municipality because of the Subdivision Open Space Plan with reasonable consideration to be given to the proprietor.
3. The following objectives shall govern the approval or disapproval of the proposed Subdivision Open Space Plan:
 - (a) To provide a more desirable living environment by preserving the natural character of the terrain features.
 - (b) To encourage developers to use a more creative approach in the development of residential areas.
 - (c) To encourage a more efficient, aesthetic and desirable use of the land while recognizing a reduction in development costs and by allowing the developer to bypass natural obstacles.
 - (d) To encourage the provision of open space so benefits may accrue directly to residents of the subdivision and to further encourage the development of recreational facilities.

B. The Subdivision Open Space Plan shall contain the following in addition to the information required by other Sections in this Ordinance.

1. A complete description of the land proposed to be dedicated to the Municipality or to the common use of lot owners (herein called open land) shall be provided, including the following as a minimum:
 - (a) Legal description of open land.
 - (b) Topographical survey of open land.
 - (c) Types of soil (according to the new American classification system) in open land.

- (d) Description of natural features on open land (stands of trees or other vegetation, streams or other bodies of water, etc.).
 - (e) Other relevant factors.
- 2. The proposed plan of development of the open land shall be submitted with the plat and shall include the following as a minimum:
 - (a) The proposed manner in which the title to land and facilities is to be held by the owners of land in the subdivision.
 - (b) The proposed manner of collection of maintenance costs, financing costs or assessments so that non-payment will continue a lien on the property, thus avoiding Municipal responsibility in the future.
 - (c) The proposed manner of regulating the use of the common facilities and areas so as to eliminate possible nuisances to other property owners and cause for enforcement by the governing unit.
 - (d) The proposed method of notifying the Municipality when any change is contemplated in plans that would affect the original specifications approved by the Municipality.
 - (e) The proposed method of setting up assessments to cover contingencies, insurance against casualty and liability and payment of taxes relating to these properties.
 - (f) The proposed uses of open land and the proposed improvements which are to be constructed by the proprietor.
- 3. The Open Space Plan shall contain a statement of the benefits to be realized by the residents of the proposed subdivision and the Municipality by approval of the proposed Subdivision Open Space Plan with particular reference to the objectives stated in Zoning Ordinance.
- C. If the Commission is satisfied that the proposed Subdivision Open Space Plan meets the letter and spirit of the Zoning Ordinance and should be approved, it shall recommend such approval to the Governing Body with the conditions upon which such approval should be based. Thereafter, the Governing Body shall take action upon such application in accordance with Section 400 of this Ordinance.
- D. If the Commission is not satisfied that the proposed Subdivision Open Space Plan meets the letter and spirit of the Zoning Ordinance or finds that the approval of said Subdivision Open Space Plan will be detrimental to existing development in the general area and should not be approved, it shall communicate such disapproval to the Governing Body with the reasons therefore. The proprietor shall be entitled to a hearing upon said proposal before the Governing Body upon written request therefore filed with the Clerk.

- E. Before the Governing Body gives approval to the proposed Subdivision Open Space Plan, the proprietor shall prepare a contract setting forth the conditions upon which such approval would be based, which contract shall be entered into between the Municipality and the proprietor prior to the approval of any Open Space Plan.

Section 604. Natural Features.

The natural features and character of lands must be preserved wherever possible. Due regard must be shown for all natural features such as large trees, natural groves, water courses and similar community assets that will add attractiveness and value to the property, if preserved. The preservation of drainage and natural stream channels must be considered by the proprietor, and the dedication and provision of adequate barriers, (dams, bulkheads, retaining walls, etc.) where appropriate, shall be required.

Section 605. Flood Plains.

Any areas of land within the proposed subdivision which lie either wholly or in part within the flood plain of a river, stream, creek or lake, or any other areas which are subject to flooding or inundation by storm water shall require specific compliance with the Subdivision Control Act and its review by the Water Resources Commission of the Department of Natural Resources.

Section 606. Topsoil.

Removal of topsoil from areas to be subdivided shall be prohibited except in those areas to be occupied by buildings, roads or parking areas. A plan for storage or stockpiling of topsoil shall be submitted by the proprietor with the final plat and shall be approved prior to receiving approval of the final plat. Such plan shall meet the requirements of the Zoning Ordinances and Soil Removal Ordinances.

Section 607. Public Sites and Open Spaces.

When consideration is given by the proprietor to the allocation of areas suitably located and of adequate size for playgrounds, school sites, parks and recreation facilities, as indicated in the Comprehensive Development Plan, said areas shall be provided by one of the following methods:

- A. Dedication to the Township.
- B. Reservation of land for use of property owners by deed or covenants.
- C. Reservation for acquisition by the Township or School Board within a period of two (2) years after development is completed. Said reservation shall be made in such a manner as to provide for a release of the land to the proprietor in the event that the Township or the School Board does not proceed with the purchase.

Due regard shall be shown by the Board for preserving outstanding natural features such as scenic spots, water courses or exceptionally fine groves of trees.

Section 608. Planting Strips.

Planting strips may be required to be placed next to incompatible features such as highways, railroads, commercial or industrial uses to screen the view from residential properties. Such screens or greenbelts shall be a minimum of ten (10) feet wide, and shall not be a part of the normal roadway right-of-way or utility easement. (Reference shall be made to Greenbelts in the Elba Township Zoning Ordinance.)

ARTICLE VII – IMPROVEMENTS

The improvements set forth under this Article are to be considered as the minimum acceptable standard. All those improvements for which standards are not specifically set forth shall have said standards set by Ordinance or by published rules of the Municipality. All improvements must meet the approval of the Governing Body.

Prior to the undertaking of any improvements, the proprietor shall deposit with the Clerk cash, a certified check or irrevocable bank letter of credit, whichever the proprietor selects, or a surety bond acceptable to the Governing Body, to insure faithful completion of all improvements within the time specified. The amount of the deposit shall be set by the Governing Body based on an estimate by the Engineer. The Governing Body shall release funds for the payment of work as it is completed and approved by the Municipality.

Section 700. Streets.

All streets and appurtenances thereto shall be constructed in accordance with the specifications established by the Lapeer County Road Commission and the Governing Body. In addition, the following standards and those noted Appendix A shall apply.

A. STREET TYPE AND MINIMUM PAVEMENT WIDTH

1. Major Thoroughfare – In conformance with the standard specifications established by the Lapeer County Road Commission and Governing Body, but in no case shall the minimum be less than twenty-four (24) feet in pavement width.
2. Local Streets – 24’.
3. Collector Streets – 24’.
4. Boulevard Streets – 22’.
5. Multiple-Family Residential Streets – 24’.
6. Turn-Around (Loop or “U”) – 22’.
7. Cul-de-sac Streets – Turn-Arounds
 - (a) Industrial – 24’ – 55’ radius at centerline.
 - (b) Residential and Others – 22’ – 35’ radius at centerline
8. Alleys – 20’.

Section 701. Utilities.

A. REQUIREMENTS FOR UNDERGROUND WIRING:

The proprietor shall make arrangements for all local distribution lines for telephone, electric, television, and other similar services distributed by wire or cable to be placed underground entirely throughout the area subdivided for residential use, except for main supply and perimeter feed distribution lines which serve areas outside the subdivided area, and except for surface facilities related to underground service, such as above ground closures or terminals, and such wires, conduits or cables shall be placed within private easements provided to such service companies by the proprietor or within dedicated public ways, provided that overhead local distribution lines within such residential area may be permitted upon written recommendation from the Planning Commission, and the approval of the Governing Body at the time of final plat approval where it is determined that overhead lines will not constitute a detriment to the health, safety, general welfare, plat design and character of the subdivision. 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. All drainage and underground utility installations which traverse privately owned property shall be protected by easements granted by the proprietor.

B. SEWAGE DISPOSAL:

A sanitary sewer system (see Section 403 f.) including all appurtenances shall be required in all subdivisions. When a proposed subdivision is located within adjacent to or reasonably near the service area of a municipal public sewer system, sanitary sewers and other required appurtenances thereto, shall be installed in such a manner as to adequately serve all lots from the municipal system. Public sewer systems shall be approved by the Michigan Department of Health and the Township Engineer. Septic tank systems must be approved by the County Health Department.

C. WATER SUPPLY:

When a proposed subdivision is located within, adjacent to or reasonably near the service area of a municipal water supply system, water mains, fire hydrants and required water system appurtenances shall be constructed in such a manner as to adequately serve all lots shown on the subdivision plat, both for domestic use and fire protection. In the event of the non-existence or non-availability of a municipal water supply system, a subdivision water supply system, if possible, as determined by the Municipal Engineer, shall be installed by the proprietor. Private wells shall meet approval of the Township and the County Health Department.

D. STORM DRAINAGE SYSTEM:

An adequate storm drainage system, including necessary storm sewers, catch basins, manholes, culverts, bridges and other appurtenances shall be required in all subdivisions. Adequate provisions shall be made for proper drainage of storm water run-off from each residential lot.

Section 702. Other Improvements:

A. SIDEWALKS:

Five (5) foot concrete sidewalks, as approved by the Township Engineer, shall be constructed where required. In those instances where no good purpose would be served by the provision of sidewalks, the Governing Body may waive this requirement.

B. STREET TREES:

Street trees shall be provided; at least one (1) per lot or not less than one (1) tree for each fifty (50) foot of street frontage.

C. STREET SIGNS:

An appropriate street sign shall be erected at each street intersection within the subdivision. The type of sign and location thereof shall be subject to the approval and direction of the Lapeer County Road Commission.

ARTICLE VIII – ENGINEERING DESIGN STANDARDS

Section 800. General Requirements.

- A. Plans submitted shall be on 24" X 36" or 22" X 36" white prints having blue or black lines, and shall be neatly and accurately prepared. Judgment should be exercised in the design and layout and presentation of proposed improvements.**
- B. All sewers shall be shown in plan and profile. Profiles of sewers shall indicate the size, invert and slope of the sewer and shall indicate the existing ground and proposed grade along the route of the sewer.**
- C. Elevations shall be on U.S.G.S. datum. If in a street right-of-way, show on the profile the adjacent top of curb or edge of pavement grade (existing or proposed). Two bench marks for the work shall be indicated on each sheet of the plans.**
- D. Finished grades of structures shall be indicated on the plan or profile for all structures.**
- E. All engineering plans submitted shall bear the seal of a Registered Professional Engineer.**
- F. One Mylar copy of As-Built plans of water, sanitary sewer, roads and storm sewer system and certification from a Registered Professional Engineer that all surface grades, roads and structures are in conformance with the approved plan shall be provided prior to acceptance of the subdivision improvements by the Municipality.**
- G. Complete project improvement plans shall be submitted prior to review and approval of any portion thereof.**
- H. Municipality standard details and specifications shall be adopted by the Governing Body resolution from time to time and will be incorporated as part of these standards.**

Section 801. Submittal Procedure.

For Township approval of sanitary sewer systems, storm sewers or water mains, the applicant shall furnish to the Township a detailed estimate of the cost and two sets of the plans including the general plan, for the system on which he desires approval. The Township shall collect the review fee and refer the plans to the Municipal Engineers, who shall check the estimate and review plans for conformity to the standards of the Municipality and certify that they are consistent with the over-all utility plans of the Municipality, after which they will return one of the two sets with appropriate comments. The applicant, after making any changes requested on the set of plans returned to him, shall then submit the revised plans to the Municipality, for final approval. If the revisions have been properly made, the Township will transmit copies to the appropriate County and/or State agencies for their review.

Section 802. Design Standards – Sanitary Sewers.

- A. The following notes pertaining to the sanitary sewers shall appear on the plans.**
- 1. Footing drains of any structure shall not be connected to the sanitary sewer unless a Registered Professional Engineer shall certify that the building footing drains are a minimum of two feet above the maximum natural ground water level.**
 - 2. Downspouts, or any conduit, that carries storm or ground water shall not be allowed to discharge into a sanitary sewer except for footing drains allowed under item 1 (a) above.**
 - 3. No sewer installation or portion thereof shall have an infiltration exceeding two hundred fifty (250) gallons per inch diameter per mile of pipe per twenty-four (24) hour period.**

Section 803. Design Standards – Storm Sewers.

- A. Storm drainage systems shall be designed for a ten-year storm. The rational method for arriving at storm water runoff shall be used. The formula for rainfall intensity shall be the City of Detroit formula: $I = 158.8 \text{ over } t + 244$ in which "t" is the time of concentration.**

The Municipal Engineer shall use judgment in arriving at proper impervious factors. The Municipal Engineer shall submit a map outlining the various areas, including offsite upstream areas, which drain to the points of inlet used for design together with the storm sewer design computations.

In general, sufficient capacity shall be provided in the storm sewer system to take upstream drainage from a fully developed, paved, and sewered district area into the system.

- B. Where the hydraulic gradient is above the top of the sewer pipe, the design elevation of the hydraulic gradient should be indicated on the profile plan.**
- C. The following information shall be indicated on the storm sewer profile:**
- 1. Length of run and type of sewer pipe between manholes.**
 - 2. Size and slope of sewer between manholes. Where possible, the slope of the sewers shall provide a minimum velocity of 2.5 feet per second.**
 - 3. Top elevation of all manholes.**
- D. A note or detail shall show the type of bedding upon which the sewer pipe shall be installed.**
- E. In general, catch basins shall be located as follows:**

1. At the radius return of street intersections, one hundred fifty (150) feet maximum distance along the street between a high point and a corner catch basin is allowed when drainage is required to go around the corner.
 2. At all low points in streets.
 3. At intermediate points along the street such that there is a maximum of six hundred (600) feet of drainage draining from a high point to a catch basin.
- F. Field catch basins shall be provided at all low points in easements. Locate intercepting field catch basins such that not more than three hundred (300) feet of drainage runs into any one catch basin other than a low point of catch basin. Six hundred (600) feet of drainage is allowed to run into a low point catch basin. Locate field catch basins in rear lot easement channel when such channel changed directions by more than forty-five (45) degrees.
- G. Finished grades within the easement shall be indicated on the plans at each lot or building site corner not adjacent to a street pavement.

Section 804. Design Standards – Water Mains.

- A. Type of pipe and joint shall be in accordance with the current Municipal standards.
- B. All water mains shall be installed with a minimum cover of five (5) feet below finished grade. Where water mains must dip to pass under a storm sewer or sanitary sewer, the sections which are deeper than normal shall be kept to a minimum length by the use of vertical bends properly anchored.
- C. In general, lateral water mains shall be eight (8) inches in diameter. Six (6) inch diameter water mains shall not have a run longer than 1400 feet between connections to an eight (8) inch water main. Gate valves shall be located in the system such that not more than four (4) valves shall be placed such that not more than thirty (30) lots shall be serviced within such section of water main which can be so isolated. Where possible, gate valves shall be located at street intersections five (5) feet from the intersection street right-of-way line.
- D. Hydrants shall be installed along the water main at least every six hundred (600) feet. In no case shall a house be more than 350 feet from a hydrant. In commercial or industrial districts, additional hydrants may be required. Hydrants shall be installed at the ends of all dead-end water mains. When near a street intersection, hydrants shall be located at least fifteen (15) feet from the intersecting street right-of-way. Hydrants shall be Municipal standard. Location of hydrants shall be approved in writing by the Municipal Fire Chief.
- E. The plans shall indicate the finished grades of all hydrants and gate valves.

ARTICLE IX – GRADING AND SITE DRAINAGE

Section 900. Submittal Procedure.

For Municipal approval of the grading plan for erosion and sediment control, the applicant shall furnish a detailed estimate and two sets of the project grading plans. The Municipal Engineer shall review the estimate and plans for conformity to the principles set forth herein, after which they will return one of the two sets with appropriate comments. The applicant, after making any changes requested on the set of plans returned to him, shall then submit four sets of revised plans to the Municipality for final approval. The Municipal Engineer shall then review these revised plans for conformity to the comments mentioned heretofore, and if they have been properly made, will retain three copies for the Municipality's records and return one approved copy to the applicant.

Section 901. Erosion and Sediment Control Principles.

- A. In order to provide effective erosion and sediment control, practical combinations of the following technical principles shall be applied to the erosion control aspects of the grading plan:
1. The smallest practical area of land should be exposed at any one time during development.
 2. When land is exposed during development, the exposure should be kept to the shortest practical period of time.
 3. Temporary vegetation and/or mulching should be used to protect critical areas exposed during development.
 4. Sediment basins (debris basins or silt traps) should be installed and maintained to remove sediment from run-off waters from land undergoing development.
 5. Provision should be made to effectively accommodate the increased run-off caused by changed soil and surface conditions after development.
 6. The permanent final vegetation and structures should be installed as soon as practical in the development.
 7. The development plan should be fitted to the topography and soil so as to create the least erosion potential.
 8. Wherever feasible, natural vegetation should be retained and protected.

ARTICLE X – COMPLIANCE STANDARDS

The approvals required under the provisions of this Ordinance shall be obtained prior to the installation of any subdivision or project improvements within the Municipality, in public streets, public alleys, public rights-of-way and public easements, and/or under the ultimate jurisdiction of the Municipality. All subdivision or project improvements within the Municipality installed in public streets, public alleys, rights-of-way, or public easements, and/or under the ultimate jurisdiction of the Municipality shall comply with all the provisions and requirements of this or any other related ordinance.

ARTICLE XI – INTERPRETATION

The provisions of these regulations shall be held to be the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of the Municipality. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of the Municipality, nor conflict with any statutes of the State of Michigan or Lapeer County, except that these regulations shall prevail, in cases where these regulations impose a greater restriction than is provided by existing statutes, laws or regulations.

ARTICLE XII – FEES

Section 1200. Review and Administrative Fees.

Preliminary and final plat review fees shall be paid by the proprietor as follows: Fees for inspection and examination of plats and the land to be subdivided and related expenses shall be paid to the Township by the proprietor, and such fees shall include the Township fee, the planner's fee and the engineer's fee. On a Subdivision Open Space Plan, the Township Attorney's fees will be based upon the present recommendation of the State Bar of Michigan in effect at said time. The legal fees shall be over and above the following charges.

- A. For Initial Investigation – No charge.
- B. 1) For preliminary Plat (\$20 filing charge) – \$2.00 per lot (\$100 minimum).
2) For Subdivision Open Space Plan – \$2.00 per lot (\$100 minimum plus attorney fees).
- C. For Final Plat (does not include \$20.00 filing fee required by Act 288 of P.A. 1967) – \$1.00 per lot (\$50.00 minimum).

The above fees cover review of subdivision plans and plats only. Township charges for review of construction plans for improvements and for inspection of construction will be provided for under future Water and Sewer Ordinances.

Section 1201. Other Fees – Insurance and Bonds.

Prior to construction of subdivision and project improvements, the contractor shall procure and maintain during the life of any contract or agreement for such construction, insurance protecting the Municipality from any claim for damages, real, personal, or otherwise, in the amount of \$500,000.00. Prior to the acceptance of improvements by the Municipality, a two-year maintenance bond in the full amount of the contract shall be posted by the owner.

ARTICLE XIII – SEVERABILITY

If any section, paragraph, clause, phrase or part of these Subdivision Regulations and Engineering Design Standards is for any reason held invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of these Regulations and Standards; and the applicant of those provisions to any persons or circumstances shall not be affected thereby.

ARTICLE XIV – REPEAL

All ordinances and amendments thereto enacted and/or adopted by the Governing Body inconsistent with the provisions of this Ordinance are hereby repealed, as of the effective date of this Ordinance. The repeal of the above Ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

ARTICLE XV – VARIANCE

Section 1500. Variance for Hardship.

The Governing Body may authorize a variance from these regulations when undue hardship may result from strict compliance. In granting any variance, the Governing Body shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, as required herein below, the Governing Body shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Governing Body finds:

- A. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land.
- B. That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- C. That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.
- D. That the variance will further the written Objectives and Policies of the Township.

Section 1501. Variance for Complete Neighborhood.

- A. Conditions: The Governing Body may authorize a variance from these regulations in case of a plan for a complete community or neighborhood where such development is permitted by the Zoning Ordinance and which, after the recommendation from the Commission, provides adequate public spaces and includes provisions for efficient circulation, light and air and other needs. In making its findings, as required herein below, the Governing Body shall take into account the nature of the proposed use and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed development upon traffic conditions in the vicinity. The Governing Body shall find:
 1. That there is adequate acreage and population in the proposed plan so as to support at least one elementary school.

2. That the standards and requirements of the Zoning Ordinance of the Municipality are met.
3. That the Planning Commission has reviewed the plan and recommends its approval as having met the standards and intent of the Master Plan of land use as it relates to facility needs.
4. That in granting the variance, it shall be valid only as long as the plan for the complete neighborhood is carried out as approved. Any departure from the plan shall immediately rescind any variance granted.
5. That the Governing Body shall establish a time schedule to be met on the various aspects of the complete neighborhood plan.

B. Application: Application for any such variance shall be submitted in writing by the proprietor at the time the preliminary plat is filed, stating fully and clearly all facts relied upon by the proprietor and shall be supplemented with maps, plans, or other additional data which may aid in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan.

ARTICLE XVI - EFFECTIVE DATE

This Ordinance shall become effective on the 9th day of February, 1971 at 12:01 a.m.

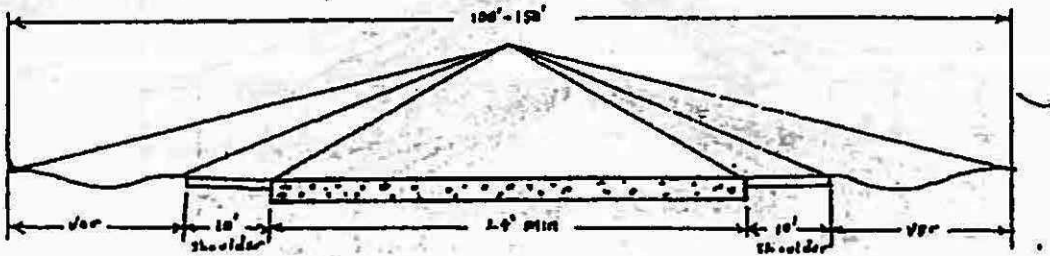
I, Richard W. Hathaway, Sr., Clerk of the Township of Elba, Lapeer County, State of Michigan, hereby certify that the foregoing Subdivision Regulations, Ordinance No. 20, was duly approved by the Township Board of the Township of Elba, Michigan, on Feb. 8, 1971, A.D., by the following vote:

YEAS - 5
NAYS - 0
ABSENT - 2

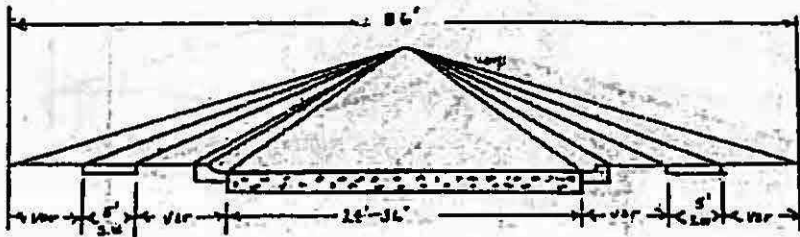
/s/ Richard W. Hathaway Sr., Clerk

TYPICAL CROSS SECTION STANDARDS

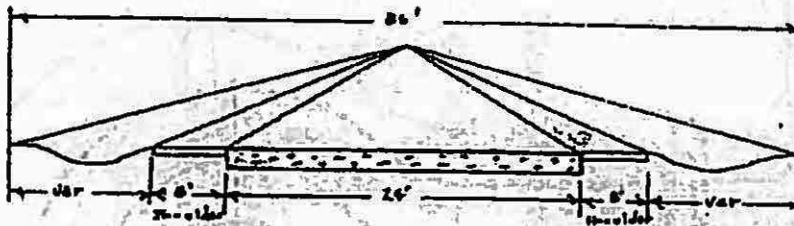
MAJOR THOROUGHFARES



COLLECTORS

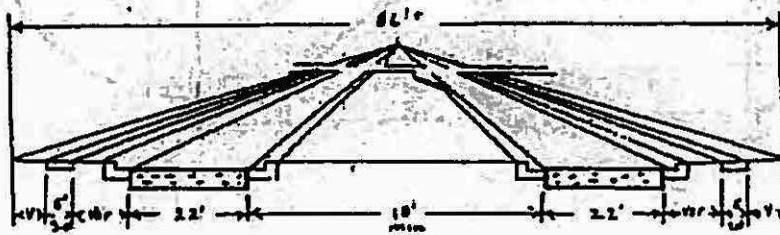


TYPE A
TYPE B
Sidewalk
side on!

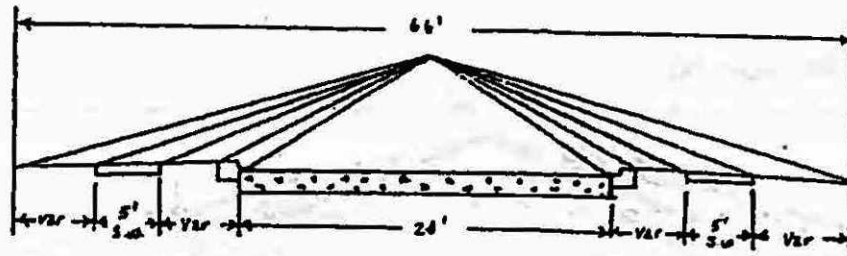


TYPE C

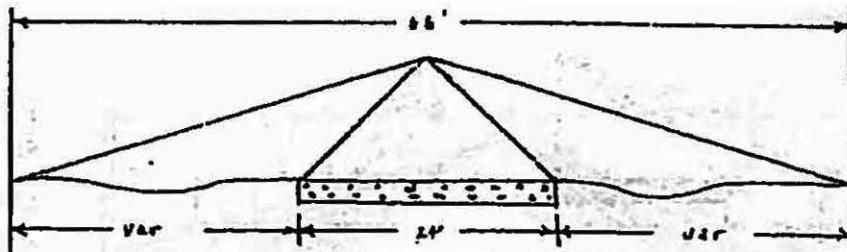
BOULEVARDS



LOCAL STREETS

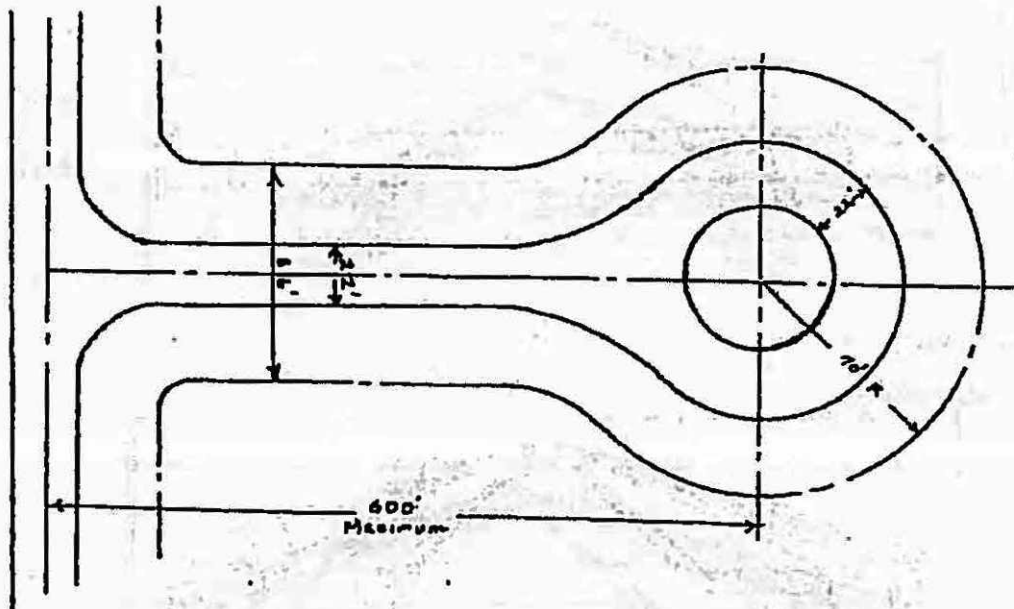


TYPE A
&
TYPE B



TYPE C

CUL-DE-SAC



APPENDIX A – STREET IMPROVEMENTS

TYPE “A”

Single-family and two-family residential developments having minimum lot widths of sixty (60) feet; lot areas less than 9,000 square feet; public sewer and public water.

TYPE “B”

Single-family residential developments having minimum lot widths of sixty (60) feet; minimum lot areas of 9,000 square feet; public sewer and public water.

TYPE “C”

Single-family residential developments having minimum lot widths of eighty (80) feet; minimum lot areas of 16,000 square feet; private wells and septic tanks.

A. MAJOR THOROUGHFARES:

In conformance with the standard specifications established by the Lapeer County Road Commission and Governing Body, but in no case shall the minimum be less than twenty-four (24) feet in pavement width, and ten (10) foot wide paved or gravel shoulders.

B. COLLECTOR STREETS:

Type “A” Development:

Eighty-six (86) feet ROW, twenty-four (24) feet pavement measured face to face of curbs; rolled or battered curbs; ten (10) foot wide paved or gravel shoulders; five (5) feet concrete sidewalks both sides; street trees; closed drainage.

Type “B” Development:

Same as for Type “A” above, except five (5) feet concrete sidewalk one side only.

Type “C” Development:

Eighty-six (86) feet ROW, twenty-four (24) feet pavement; eight (8) feet gravel berms; culverts at driveways; open channel drainage; street trees.

C. LOCAL STREETS:

Type “A” and “B” Developments:

Sixty-six (66) feet ROW; twenty-four (24) feet pavement measured face to face of curbs; rolled or battered curbs; five (5) feet concrete sidewalks both sides; street trees; closed drainage.

Type “C” Development:

Sixty-six (66) feet ROW; twenty-four (24) feet pavements; culverts at driveways; open channel drainage; street trees.

D. MULTIPLE FAMILY RESIDENTIAL STREETS:

Sixty-six (66) feet ROW; twenty-four (24) feet pavement measured face to face of curbs; rolled or battered curbs; five (5) feet concrete sidewalks on both sides; street trees; closed drainage.

E. BOULEVARD STREETS:

Type "A" and "B" Development

Eighty-six (86) feet ROW; two twenty-two (22) feet pavements measured face to face of curbs and separated by an eighteen (18) feet island; rolled or battered curb both sides of both pavements; five (5) feet concrete sidewalk next to both ROW lines; street trees in center of island and between curb and sidewalk on both sides of ROW.

Type "C" Development

Eighty-six (86) feet ROW; two twenty-two (22) feet pavements separated by sixteen (16) feet island; two (2) feet gravel berms outside of lanes; open channel drainage with culverts at driveways; street trees in center of island and along both ROW lines.

F. CUL-DE-SAC STREETS:

Type "A" and "B" Development

Sixty-six feet ROW; twenty-two (22) feet pavement measured face to face of curbs; rolled or battered curbs; five (5) feet concrete sidewalks both sides; street trees.

Type "C" Development

Same as above except with turning circle with one hundred twenty (120) feet diameter ROW; twenty-two (22) feet pavement throughout; turning circle pavement with forty (40) feet outside radius; grassed island; culverts at driveways; channel drainage; street trees.

G. "U" STREETS:

Type "A" and "B" Development

One hundred twenty (120) feet ROW; two twenty-two (22) feet pavements measured face to face of curbs and separated by forty-four (44) feet island; terminated by turning circle with one hundred twenty (120) feet diameter ROW, pavement with forty (40) feet outside radius; rolled or battered curb all pavement edges; five (5) feet concrete sidewalks both sides; street trees in island and along both sides.

Type "C" Development

Same as above except no curb or sidewalks required; eight (8) feet gravel shoulder on outside; culverts at driveways; open channel drainage; street trees in island and along both sides.

H. ALLEYS:

Type "A", "B" and "C" Development

Twenty (20) feet ROW; twenty (20) feet pavement.

I. CURB OR CURB AND GUTTER:

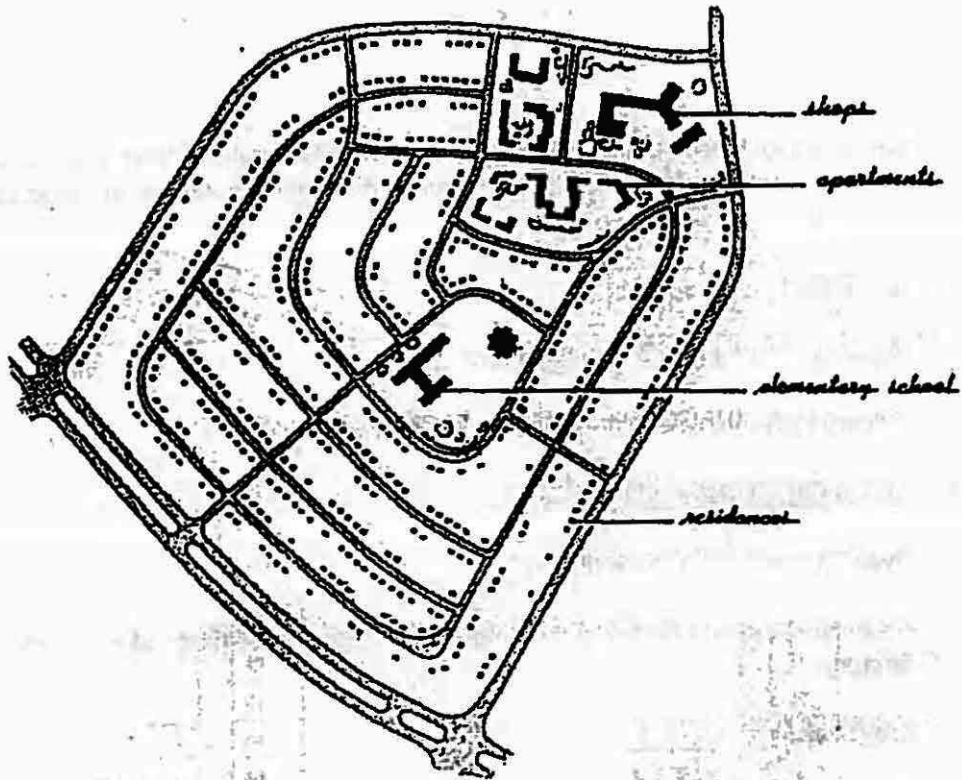
Type "A" and "B" Development

Curb and Curb and Gutter: per details and specifications approved by Township Engineer.

J. PAVEMENT:

Type "A", "B" and "C" Development

Pavement: per details and specifications approved by Township Engineer.



AN IDEAL NEIGHBORHOOD*

With proper planning, neighborhoods may be designed that will efficiently satisfy the needs of the populace. Although few developers operate on a scale to construct an entire neighborhood, it is possible to achieve similar results with the Planning Commission coordinating the many small subdivisions.

In promoting good neighborhood design, factors of paramount importance include:

- (1) Housing should be pleasant and attractive and set upon lots of adequate yard space.
- (2) Traffic should be channeled relative to purpose with heavy transient traffic by-passing the neighborhood, and only local traffic permitted within its perimeter.
- (3) An elementary school should be centrally located within the neighborhood for easy and safe access.
- (4) A playground should adjoin the school for centrality of location and for joint use of facilities.
- (5) Apartments should be allowed only adjoining major roads on the edge of the neighborhood to keep heavy traffic away from interior neighborhood streets.
- (6) Shopping centers should be allowed only on major roads on the edge of the neighborhood, to keep heavy traffic away from interior neighborhood streets.

* Design Source: International City Managers' Association; Local Planning Administration (Chicago, Illinois, 1960).

Yachnis, Rogers & Associates, Inc.

COMMON MISTAKES IN LOTTING

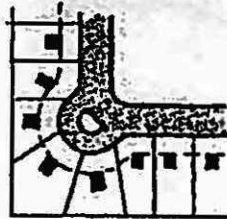


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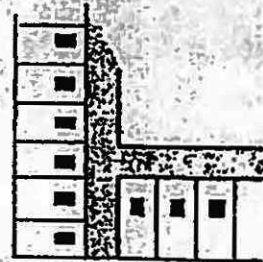


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DIAGONAL STREETS SHOULD BE AVOIDED

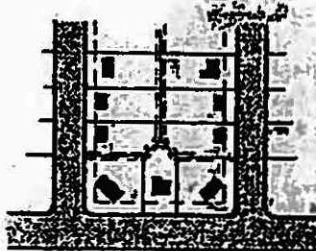


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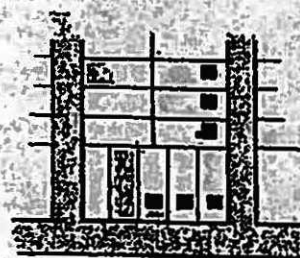


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WHERE FUTURE STREET EXTENSIONS ARE NOT REQUIRED IN CORNERS OF PROPERTY



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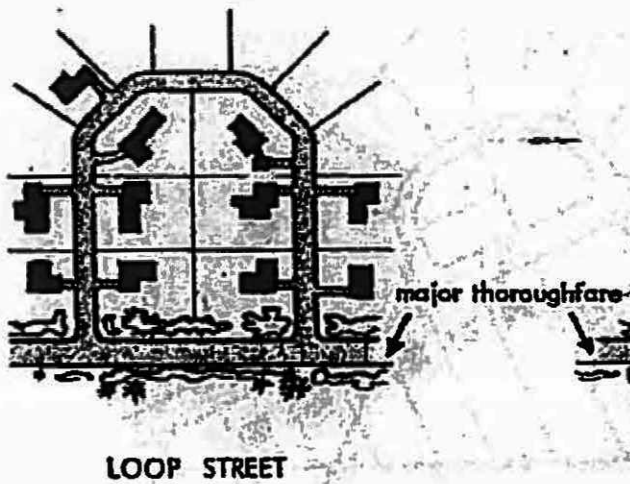
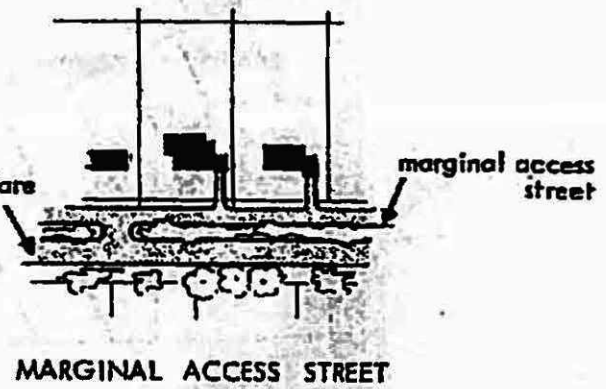
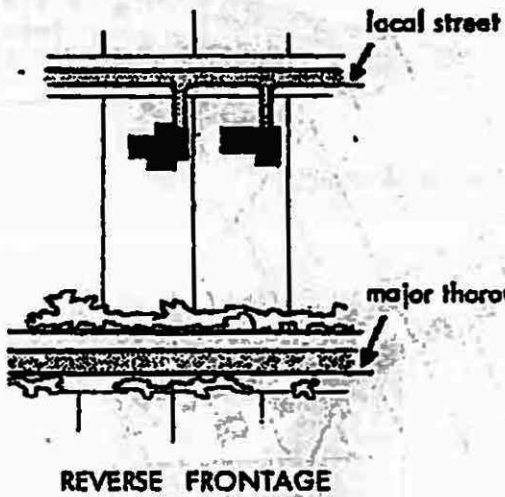


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PROPER TREATMENT OF CORNER LOTS

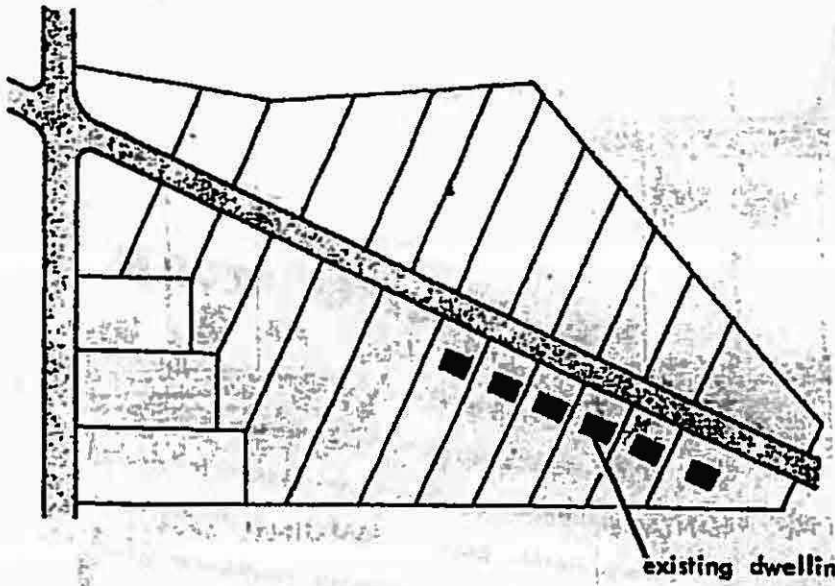
Perkins, Rogers & Associates, Inc.

SUBDIVIDING ALONG MAJOR THOROUGHFARES

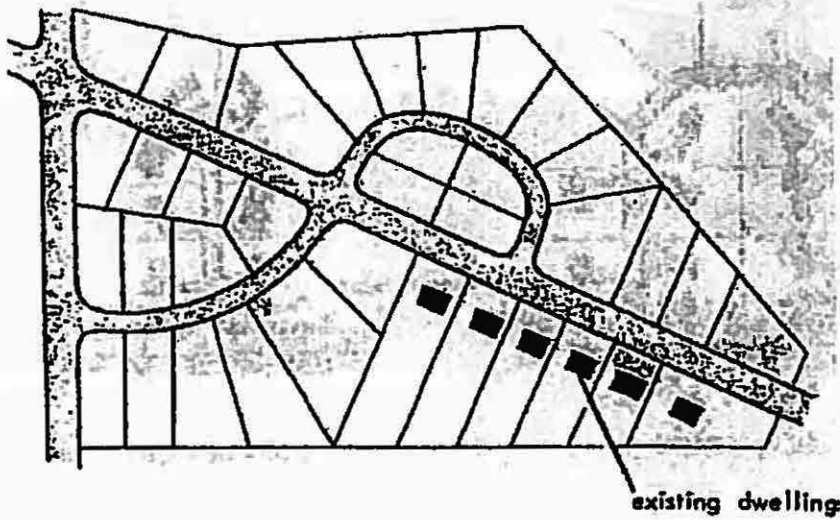


Parkins, Rogers & Associates, Inc.

REPLATTING LAND



ORIGINAL PLAT
27 Lots

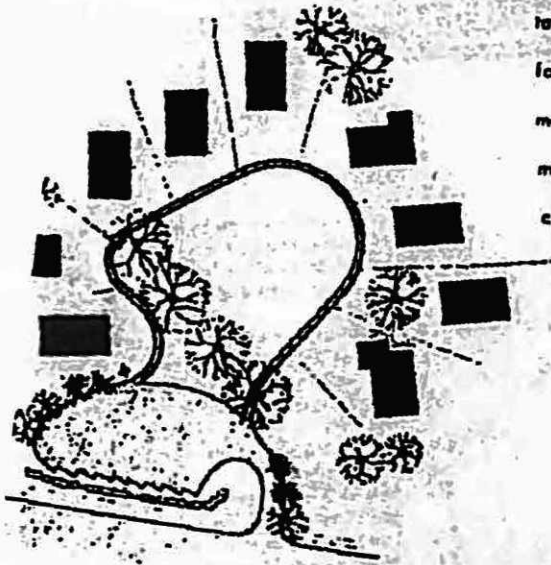


REVISED PLAT
36 Lots

Partlow, Rogers & Co. Inc.



PLAN

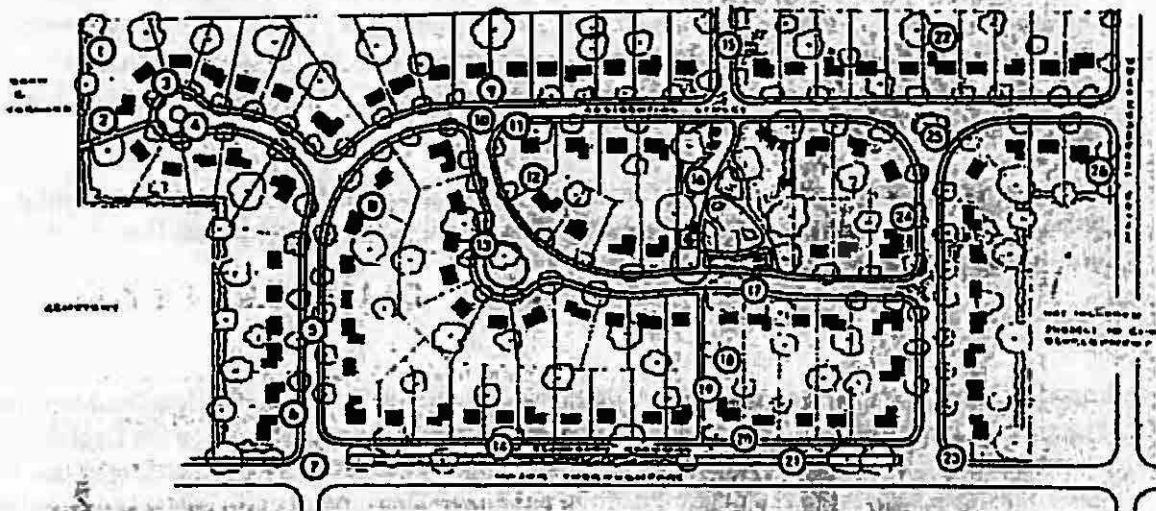


DETAIL

THE CLUSTER PLAN

This concept involves the clustering of houses on lot sizes in than conventional single lot zoning requirements in order to gain a better definition of space and preservation of some for public recreation use. This open space could be owned maintained either by a homeowners' association or by the municipality. With the use of the cluster concept, deve costs are often reduced.

AN IDEAL SUBDIVISION*



1. 15 foot easement for planting screen to provide protection from non-residential use.
2. 10 foot walk easement gives access to school.
3. Cul-de-sac utilizes odd parcel of land to advantage.
4. Turn-around right-of-way 100 feet in diameter.
5. Street trees planted approximately 50' apart where no trees exist.
6. Additional building setback improves subdivision entrance.
7. Street intersections at right angles reduce hazards.
8. Lot side line centered on street end to avoid car lights shining into residences.
9. Residences opposite street end set back farther to reduce glare from car lights.
10. Three-way intersections reduce hazards.
11. Property lines on 30' radii at corners.
12. Lot side lines perpendicular to street right-of-way lines.
13. "Eyebrow" provides frontage for additional lots in deeper portion of block.
14. Secondary roadway eliminates hazard of entering major thoroughfare from individual driveways.
15. Provision for access to land now undeveloped.
16. Neighborhood park located near center of tract. Adjoin lot wider to allow for 15 foot protective side line setback.
17. Pavement shifted within right-of-way to preserve existing trees.
18. Above ground utilities in rear line easements.
19. 10 foot walk easement provides access to park. Adjoin lot wider to allow for 15 foot protective side line setback.
20. Variation of building line along straight street creates interest.
21. Screen planting gives protection from noise and lights of throughfare.
22. Lot backing to uncontrolled land given greater depth for additional protection.
23. Low planting at street intersections permits clear vision.
24. Wider corner lot permits equal building setback on each street.
25. Planting of block end to avoid siding properties to reside across street.
26. Lot sided to boundary street where land use across street non-conforming.

*Urban Land Institute, Community Builders' Handbook (Washington, D. C., 1960)

Planning, Design & Construction, Inc.

PROCEDURES GUIDE FOR SUBDIVIDING LAND

Step #1

The purpose of the initial investigation is to provide the proprietor with an opportunity to meet with the Township Planning Commission or sub-committee and discuss informally, factors which might relate to the proposed subdivision. (See Article III, p. 5, Subdivision Regulations.) Items of interest might include: Zoning Ordinance, Subdivision Regulations, Building Code, Housing Code, Comprehensive Plan, Water and Sewer Plans, Schools, Recreation, Soils Studies, Lapeer County Studies and others.

If the proprietor submits a sketch plan, the Planning Commission shall review the same within thirty (30) days. Whenever possible, the sketch plan should be submitted at least five (5) days prior to the Planning Commission meeting.

Step #2

Proprietor submits ten (10) copies of the preliminary plat to the Township Clerk at least ten (10) days prior to the Planning Commission meeting. He also submits other copies to the Lapeer School District, County Road Commission, County Drain Commission, Michigan Department of State Highways, Department of Natural Resources, Health Department and others as required in the Subdivision Control Act (Sections 113-119).

Step #3

The Township Clerk shall review the proposed plat for completeness (see check list). If complete, place on agenda of next Planning Commission meeting. If data is required to complete plat, the Clerk notifies the proprietor of the data required. (See Section 401, 402, and 403 of Subdivision Regulations for required data.) The date the plat is received and the date of the Planning Commission meeting should be placed on the plat by the Clerk. The Township Planning Commission has sixty (60) days to review the preliminary plat.

Step #4

The Clerk shall send a notice to adjoining land owners stating time and place of meetings when the proposed plat will be discussed. At the discretion of the Planning Commission and in lieu of a separate notice, a public notice may be published in a newspaper of general circulation (Section 404). The Clerk sends copies of the plat to the Municipal Engineer (2 copies), Municipal Planner (2 copies), Township Board (1 copy), Development and Control Committee of Planning Commission (4 copies) and the Clerk retains one copy.

Step #5

A non-rebatable filing fee, in the amount of twenty (\$20.00) dollars shall be given to the Township Clerk (check made payable to Elba Township Treasurer) and proof of same presented to the Secretary of the Planning Commission prior to any action by the Planning Commission.

Step #6

The proprietor shall submit copies of the comments made by each of the required County and State agencies prior to approval of the preliminary plat by the Township Board.

Step #7

The Planning Commission should review the recommendations of the Commission's Development and Control Subcommittee, the engineer, the planning consultant, adjacent land owners and the County and State agencies noted in Sections 113 and 119 of the Subdivision Control Act.

Step #8

The Commission shall review the preliminary plat for compliance with the following:

- A. Compliance with ordinances and regulations—Zoning, Building Code, sewage disposal, electrical, and others.
- B. Availability and adequacy of utilities.
- C. Impact on schools and recreation facilities.
- D. Comprehensive Plan.
- E. Transportation network and surrounding land uses.
- F. Objectives and policies of the Township.

Step #9

The Planning Commission shall recommend approval, disapproval or conditional approval.

- A. If approval or conditional approval, forward to the Township Board.
- B. If disapproval, record reasons in minutes and notify proprietor in writing and submit copy to the Township Board.

Step #10

The Secretary shall note the Commission action on each copy of the plat and distribute as specified in Section 404 of the Elba Township Subdivision Regulations.

Step #11

The Township Board will not make a decision on the preliminary plat until it has received the review and recommendations of the Planning Commission. The Township Board shall take action on the plat within ninety (90) days from the filing date.

Step #12

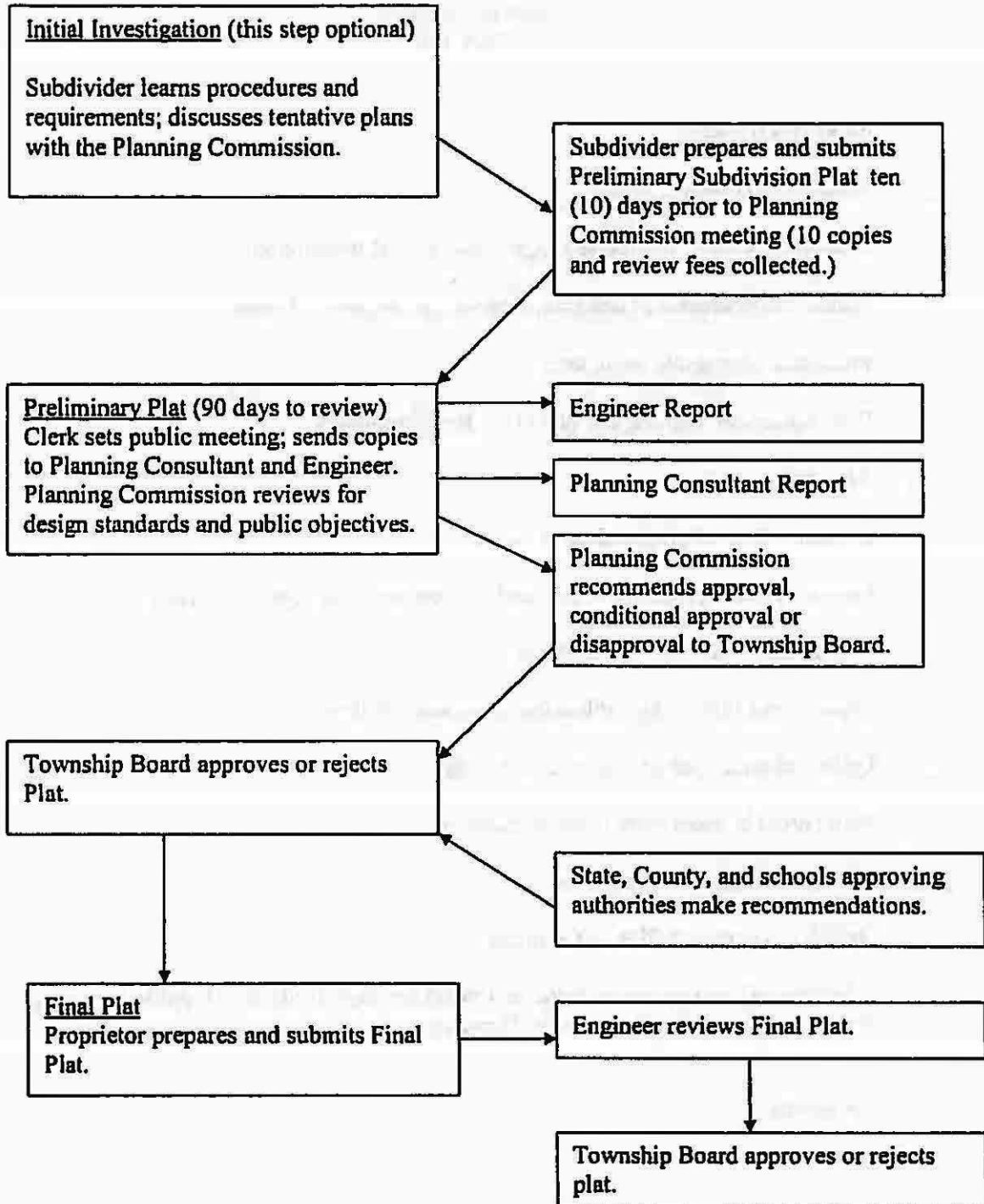
The Township Board, after receipt of the necessary approved copies of the preliminary plat, shall:

- A. Consider and review the preliminary plat at its next meeting or within twenty (20) days from the date of submission and approve it if the proprietor has met all conditions laid down for approval of the preliminary plat.**
- B. Instruct the Clerk to promptly notify the proprietor of approval or rejection in writing, and if rejected, to give the reasons.**
- C. Instruct the Clerk to note all proceedings in the minutes of the meeting which minutes shall be open for inspection.**

Step #13

The final plat review shall be made according to Article V, Elba Township Subdivision Regulations.

SUBDIVISION PROCEDURES FLOW DIAGRAM



ELBA TOWNSHIP PLANNING COMMISSION

**Subdivision Plat
Check List***

- Subdivision Name
- Proprietor Name and Address
- Location (Section, Town and Range or other legal description)
- Names and addresses of designer, engineer, surveyor or planner
- Proprietor's legal interest in land
- Date, northpoint and scale of plat (1" = 100' minimum)
- Area wide map
- Boundary lines of proposed subdivision
- Layout of streets, right-of-ways – and connections with adjoining streets
- Topography – two (2) foot contours
- Layouts, and dimensions of lots including setback lines
- Dedicated areas, public use areas or outlets
- Water areas or areas to be filled or excavated
- Statement of intended land uses
- Overall development Plan – if applicable
- Indication of sanitary sewer, water and storm drainage facilities – if individual septic systems, include letter from Health Department

Comments:

*Check list should be considered only as a general reference to Sections 401, 402 and 403 of the Subdivision Regulations Ordinance of Elba Township.

TOWNSHIP OF ELBA
County of Lapeer

OUTDOOR ASSEMBLY
ORDINANCE NO. 22

PUBLIC NOTICE

TOWNSHIPS OF ALMONT, ATTICA, BURLINGTON, BURNSIDE, DEERFIELD,
DRYDEN, ELBA, GOODLAND, HADLEY, LAPEER, MARATHON, MAYFIELD,
METAMORA, OREGON AND RICH

An Ordinance to license, regulate and control, in the interest of the public health, safety and welfare, outdoor gatherings of persons in excess of 2,500 in number, to provide penalties for violations thereof and to repeal all ordinances or parts of ordinances inconsistent therewith.

The townships of Almont, Attica, Burlington, Burnside, Deerfield, Dryden, Elba, Goodland, Hadley, Lapeer, Marathon, Mayfield, Metamora, Oregon and Rich ordain:

Section 1. Preamble.

The Township Board finds and declares that the interests of the public health, safety and welfare of the citizens of the Township 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 this township.

Section 2. Definitions.

- A. "Outdoor Assembly" hereinafter referred to as "assembly" means any event attended by more than 2,500 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. 501 (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 service in lieu of the payment of money for admission.

E. "Licensee" means any person to whom a license is issued pursuant to this ordinance.

Section 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.

Section 4. Application For License.

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 sixty (60) days prior to date of the proposed assembly. Each application shall be accompanied by a nonrefundable fee of one hundred (\$100) dollars 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 five hundred (\$500) dollars.
- B. A statement of the kind of 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.

Section 5.

Each application shall be accompanied by a detailed explanation, including drawings and diagrams where applicable of the prospective licensee's plan 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.

Section 6.

On receipt by the clerk, copies of the application shall be forwarded to the chief law enforcement and health officers for the county, 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 twenty (20) days of receipt thereof shall report their findings and recommendations to the township board.

Section 7.

Within thirty (30) days of the 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 (5) days of such action, notice thereof must be mailed to the applicant by certified mail, and, in the case of denial, the reasons therefore shall be stated in the notice.

Section 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.

Section 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 the 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.

Section 10.

In processing an application, the township board shall, at 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 chief law enforcement officer for the county in cooperation with the Director of State Police 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 accordance with any other applicable state or local law, or from a source and delivered and stored in a manner approved by the Thumb District Health Department health officer.
- 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 Thumb District Health Department health officer 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 accordance with any other applicable state or local law.

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	Male	Female
Toilets	1:300	1:200
Urinals	1:100	
Lavatories	1:200	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	Male	Female
Shower Heads	1:100	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 Thumb District Health Department health officer.

- 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 facility shall be as prescribed by the Thumb District Health Department health officer.
- F. **Liquid Waste Disposal.** The licensee shall provide for liquid waste disposal in accordance with all rules and regulations pertaining thereto established by the Thumb District Health Department health officer. If such rules and regulations are not available or if they are inadequate, then liquid waste disposal shall be in accordance with the United States Public Health Service Publication No. 526, entitled "Manual of Septic Tank Practice." 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 issuance of any license, the licensee shall provide the Thumb District Health Department health officer 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.
- 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 and accommodate the number of attendants. Prior to issuance of any license, the licensee shall provide the Thumb District Health Department health officer with a true copy of an executed agreement in force and effect with licensed refuse collectors, 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.

- 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 provision 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 provision of state or local law.
- J. **Access and Traffic Control.** The licensee shall provide for 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 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 (4) 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. While Act 171 does not become effective until January 1, 1971, for purposes of this ordinance, its provisions shall be effective and applicable upon the adoption of said ordinance.
- 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 Electrical Administrative Board of the State of Michigan.
- N. **Insurance.** Before the issuance of a license, the licensee shall obtain public liability insurance with limits of not less than \$100,000/\$300,000 and property damage insurance with 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 (10) 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 attorney, conditioned upon the licensee's faithful compliance with all of the terms and provisions of this ordinance and all applicable provisions of state or local law, and which shall indemnify the township, its agents, officers, and employees and the board against any and all loss, injury or damage whatever arising out of or in any way connected with 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.
- Q. **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.
- 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 will 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.

Section 11. Revocation.

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.

Section 12. Violations.

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 permit, 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 ninety (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.

Section 13. Severability.

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.

Section 14. Effective Date.

This ordinance shall be effective from and after November 10, 1970.

Signed:

Eva Duckert, Almont Township Clerk.
 Norene Irish, Attica Township Clerk
 Mildred McKillop, Burlington Township Clerk
 Jay Robson, Burnside Township Clerk
 Daniel M. Bell, Deerfield Township Clerk
 Lawrence Wilson, Dryden Township Clerk
 Richard W. Hathaway, Sr., Elba Township Clerk
 Willard J. Wilbur, Goodland Township Clerk
 Earl W. Jewell, Hadley Township Clerk

Ila M. Burris, Lapeer Township Clerk
 Doris Hobbins, Metamora Township Clerk
 Arthur Graham, Oregon Township Clerk
 Harland Welks, Rich Township Clerk

**TOWNSHIP OF ELBA
County of Lapeer**

**ELBA TOWNSHIP HALL ORDINANCE
ORDINANCE NO. 23
Adopted Nov. 13, 1973
Effective Jan. 1, 1973**

At a regular meeting of the Elba Township Board, held on Monday, November 13, 1972, at 8 p.m., at the Elba Township Hall, it was moved by Downey and supported by Stock to adopt the following ordinance, to wit:

THE TOWNSHIP BOARD OF THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Short Title.

This ordinance shall be known and cited as the "Elba Township Hall Ordinance #23."

Section 2. Use in General.

No person, firm or corporation shall use the Elba Township Hall for any purpose unless:

- A. It is part of an official Elba Township municipal conference, meeting or administrative activity, or
- B. The use is permitted by these regulations and a permit has been properly issued and the required deposit paid.

Section 3. Permissible Uses.

The following uses are permissible: any municipal, political, religious, charitable, or social use which is not likely to cause damage or destruction to the building, its contents, or the premises.

Section 4. Consumption, Transportation, or Possession of Alcoholic Beverages Into or Within Township Hall.

It shall be unlawful for any person, firm, or corporation to carry or transport into, consume or permit to be consumed, or possess within the Elba Township Hall any alcoholic or intoxicating beverage.

Section 5. Damage to Contents or Structure of Township Hall.

It shall be unlawful for any person, firm, or corporation to intentionally or negligently damage or cause to be damaged any of the furniture, equipment, materials, records, books, or papers of the Township of Elba within the Township Hall, or to damage or cause to be damaged any part of the structure of the Township Hall.

Section 6. Applications for Use of Elba Township Hall.

Applications for use of the Elba Township Hall shall be submitted in writing to the person so designated by the Elba Township Board and shall contain the following information: The name and address of both the organization that desires to use the building and the person applying therefore; the relationship of the person applying to the organization requesting the use, the date and time and purpose for which use is sought; the number of people expected to attend; whether kitchen facilities are needed; and the various activities intended to be carried on.

Section 7. Deposit.

The sum of \$20.00 shall be tendered with each application for a social use to apply toward the cost of clean-up and repair, occasioned by the use of the Elba Township Hall, and any remaining balance shall be returned to the applicant when the clean-up and any necessary repairs are completed.

Section 8. Cleanup & Repairs.

The person applying shall be personally responsible to see that a full and complete clean-up of all waste and debris is effected within and about the Elba Township Hall within 8 hours following the end of the permitted activities as disclosed by the application. In the event that such a full and complete clean-up is not effected, the Township shall undertake the clean-up, and both the person applying and his organization shall pay for the cost thereof.

Section 9. Penalties.

Any person, firm, corporation or other organization who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this Ordinance shall be fined, upon conviction, not more than one hundred (\$100) dollars together with the costs of prosecution, or shall be punished by imprisonment for not less than one day nor more than ninety (90) days for each offense, or may be both fined and imprisoned as provided herein.

Section 10. Effective Date.

This Ordinance shall become effective on January 1, 1973.

AYES: Downey, Ross, Collier, Rice, Stock, Moore and Sullivan

NAYS: None

MOTION CARRIED and ORDINANCE ADOPTED.

"EXHIBIT A"

TOWNSHIP OF ELBA
County of Lapeer

ORDINANCE NO. 24

An Ordinance to designate an enforcing agency to discharge the responsibilities of the Township of Elba and under the provisions of the State Construction Code Act. (Act 230 P.A. of 1972)

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Agency Designated.

Pursuant to the provisions of the Michigan Plumbing Code which consists of the BOCA Basic Plumbing Code, 1970 edition, including accumulative supplement dated 1973, except 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 which have been deleted and includes amendments to P-100.2, P-117.0, P-201.1, P-301.1, P-301.2, P-308.2, P-313.3, P-405.12, P-602.31, P-701.16, P-701.2, P-1001.7, P-1101.3, P-1101.4, P-1102.0, P-1204.55, P-1605.10, P-1606.21, P-1606.22, P-1606.23 and further includes additions being: R 408.30725 (P-309.3), R 408.30752 (P-1001.9), R 408.30762 (P-1205.41), R 408.30791, R 408.30792, R 408.38792, R408.30795 and R408.30796, of Act 230 of the Public Acts of 1972, the plumbing official of the Township of Elba is hereby designated as the enforcing agency to discharge the responsibilities of the Township of Elba under Act 230 of the Public Acts of 1972, State of Michigan. The Township of Elba hereby assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

Section 2. All Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. This Ordinance shall take effect May 19, 1975.

Adopted May 12, 1975.

This Ordinance duly adopted on May 12, 1975, at a regular meeting of the Elba Township Board and will become effective May 19, 1975.

Date: May 12, 1975.

Attest:

LS Francis Sullivan
Francis Sullivan
Elba Township Supervisor

LS Guendoline I. Poon
Guendoline I. Poon
Elba Township Clerk

TOWNSHIP OF ELBA
County of Lapeer

ELBA TOWNSHIP FIRE ORDINANCE
ORDINANCE NO. 25

An Ordinance to regulate the calling or summoning of a Police or Fire Department when the service called for is not needed, and to provide penalties therefor; and to provide for the recovery of the costs of such an unnecessary trip by a civil action.

At a regular meeting of the Elba Township Board held on Monday, September 27, 1976, at the Township Hall at 8 p.m., Trustee Fleury moved for the adoption of the following Fire Ordinance, and Trustee Brownrigg supported the motion:

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Short Title.

The Ordinance shall be known and sited as Ordinance No. 25, Elba Township False Alarm Ordinance.

Section 2. False Alarm.

It shall be unlawful for any person, firm, or corporation within the Township of Elba, Lapeer County, Michigan, to summon as a joke, prank, or otherwise, without any good reason ~~therefor~~ by telephone or otherwise, any Police or Fire Department, in the State of Michigan to go to any address or place within the State of Michigan where the service called for or requested is not needed.

Section 3. Penalties.

Any person, firm, or corporation who violates the provisions of Section 2. of this Ordinance shall be guilty of a misdemeanor and shall be fined not less than \$100.00 or imprisoned for a period not to exceed ninety (90) days, or by both such fine and imprisonment in the discretion of the court having jurisdiction thereof.

Section 4. Civil Recovery.

Any person, firm, or corporation who violates the provisions of Section 2. of this Ordinance shall be liable for the actual costs and expenses in a civil action to the Township of Elba, Lapeer County, Michigan, or to any other municipal Police or Fire Department in the State of Michigan, whose Police or Fire Department has been summoned or requested by any person in the Township of Elba to go to any address or place within the State of Michigan where the service called for is not needed.

The above Ordinance shall be effective on Monday, November 8, 1976.

AYES: Reamer, Fleury, Sullivan, Ross, Brownrigg and Purvis.

ABSENT: Petty

NAYS: None.

MOTION CARRIED and ORDINANCE ADOPTED.

TOWNSHIP OF ELBA

County of Lapeer

COMMUNITY ANTENNA TELEVISION
FRANCHISE APPLICATION
ORDINANCE NO. 26

It was moved by Trustee Tallman, and supported by Treasurer Purvis, that the following Community Antenna Television Franchise Application Ordinance be adopted:

THE TOWNSHIP OF ELBA, LAPEER COUNTY, MICHIGAN, ORDAINS:

Section 1. Short Title.

This Ordinance shall be known as the "Community Antenna Television Franchise Application Ordinance."

Section 2. Purpose.

The purpose of this Ordinance is to provide an orderly and informative method to apply for the issuance of a franchise for a Community Antenna Television (CATV) System, which is hereby defined to be a system that provides television programs to various households and buildings through a cable from a community antenna.

Section 3. Franchise Required.

It shall be unlawful to commence or engage in the construction or operation of a CATV System in the Township of Elba, Lapeer County, Michigan, without a franchise therefore.

Section 4. Applications for Certificate.

Any person may file an application for a Franchise. Prospective applicants will be expected to be aware of any restrictions on their eligibility that are or may be imposed by this Ordinance or by the Federal Communications Commissions (F.C.C.).

A. Applications shall be in writing and shall contain but not be limited to, the following information:

1. Name, address, and form of business of the applicant. If the applicant is a partnership or joint venture, the application shall give the names and addresses of each participant and all details relating to their joint venture and partnership. If the applicant or any of the partners or participants in a joint venture is a corporation, the applications shall show the names and addresses of its officers, directors, and stockholders owning more than five (5%) percent of the outstanding stock as measured by its book value. Data required as to one's corporation participation in a joint venture shall be submitted for each participant. In cases where corporate stock is held by another corporation, a parent, affiliate or subsidiary, the same details as to participants in the parent, affiliate or subsidiary corporation shall be required. The principal officers and places of business of each such corporation shall be included on the application.

2. A description of the CATV System proposed to be installed and operated, including such detail as may permit a proper evaluation of the merits of the proposal. The description shall contain detail as to capability of the components which the applicant proposes to utilize, including such features as two-way capability, switching, terminal facilities, use of antennae, the provision of services not required by this Ordinance but which may be indicative of the applicant's intent and desire to serve the public.
 3. A description of the applicant's plans for cablecasting.
 4. Copies of any agreements which the applicant has with any other person relating to the prospective CATV operation.
 5. Current certified audited financial statements of the applicant, including individual statements for each participant in any joint venture. The rendering of the financial statements shall be in such form as will clearly reveal the extent of the applicant's CATV operations, including investment in CATV facilities, revenues and expenses of operations.
 6. A proposed financial plan for the applicant's proposed operation indicating potential and probable sources of capital.
 7. An engineering plan, indicating a schedule for the commencement of construction and commencement of operations, and a completion timetable.
 8. A listing of all CATV Systems owned by the applicant or in which the applicant has a substantial interest, including joint ventures, and minority financial interests exceeding five (5%) percent. The list shall contain statements regarding each system, as to its location, number of homes presently in the territory being served or to be served, the number of homes passed and the current number of subscribers, gross revenues and expenses attributable to CATV operations for the most recent twelve-months' period for which such data are available. Accompanying the list shall be the name and address of each local regulating authority. The listing of such Systems shall be construed as authority for the Elba Township Board to make inquiry as to the ability and responsibility of the applicant and its officers.
- B. The application shall include a declaration by the applicant that the application is true and complete.
 - C. The application shall include a declaration that the applicant agrees to comply with this Ordinance.
 - D. The application shall also contain a declaration that, if a franchise is granted, the applicant will within thirty (30) days, fully comply with requirements of the F.C.C. by filing such documents as that agency may require.
 - E. The application shall also contain the statement by the applicant that he will, upon proper request by the Elba Township Board, provide such other facts as may serve to

reflect upon the materiality of the application, the quality, character and ability of the applicant, its affiliates, parents or subsidiaries.

Section 5. Penalties.

Any person, firm or corporation that is found guilty of Section 3. supra, shall be fined not more than one hundred (\$100.00) dollars or imprisoned for not less than ninety (90) days, or by both such fine and imprisonment in the discretion of the Court.

Section 6. Effective Date.

This Ordinance shall become effective on the 20th day of August 1979.

AYES: Purvis, Evans, Lindsay, Tallman, Reamer and Buelk

NAYS: None

ABSENT: Dow

**MOTION CARRIED and COMMUNITY ANTENNA FRANCHISE APPLICATION
ORDINANCE ADOPTED.**

**TOWNSHIP OF ELBA
County of Lapeer**

**PRIVATE ROADS
ORDINANCE NO. 27.1**

An ordinance to regulate and establish standards for the approval and construction of private roads within the Township of Elba.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. General Requirements.

- A. Any lot or parcel of land within the Township which does not abut a public road shall abut a private road meeting the standards of this Ordinance.**
- B. No zoning compliance permit, building permit, or certificate of occupancy shall be issued within the Township unless the parcel or lot fronts on a private road improved to the standards of this Ordinance or on a public road.**
- C. Private roads constructed pursuant to this Ordinance shall not be maintained by or dedicated to the Township.**

Section 2. Definitions.

- A. LOT or PARCEL:** An area of land with a legal description separate from any other land. For projects under the Condominium Act, (Michigan Public Act 59 of 1978), the words "lot or parcel" shall mean that portion of a site condominium subdivision project designed and intended for separate ownership and/or exclusive use, as described in the site condominium subdivision project's Master Deed.
- B. PRIVATE ROAD:** Any road or thoroughfare for vehicular traffic contained which is privately owned and maintained and which provides the principal means of access to two (2) or more lots or parcels.
- C. PRIVATE ROAD EASEMENT:** An easement which is granted exclusively for private access to two (2) or more parcels of land and which contains or is intended to contain a private road.
- D. PUBLIC ROAD:** A publicly maintained thoroughfare used for traffic circulation and access to abutting properties.

Section 3. Standards for Private Roads.

- A. All private road rights-of-way shall be a minimum of 66 feet in width and shall be shown on the land division drawing as an easement for roadway purposes.**
- B. Intersecting streets shall be between 75 and 90 degree angles at intersections.**
- C. Minimum sight distances shall be 400 feet at intersections with local roads and 750 feet at intersections with primary roads.**

- D. Curves shall be constructed so as to have a minimum design speed of 35 miles per hour.
- E. Road grades shall be a minimum of 0.2 percent and a maximum of 6.0 percent.
- F. All vegetation and top soil shall be removed and excavated 34 feet in width, centered on the 66 feet, for the full length of the road. The completed traveled way shall be a minimum of 24 feet in width.
- G. Roadside ditches shall be at least 50 feet apart, center to center, and shall have a minimum depth of 18 inches from the shoulder. Minimum width at the bottom of the ditch shall be 24 inches.
- H. There shall be a minimum sub-base of compacted material consisting of eight (8) inches of sand and a top six (6) inches of #22A gravel. All trees, stumps, brush and the roots thereof shall be entirely removed from within the grading limits of all private roads.
- I. All driveway culverts shall be a minimum of 12 inches in diameter, 20 feet in length, and 16-gauge corrugated metal pipe. Sodding, planting, seeding, rip-rapping or other measures of soil erosion control shall be used within roadside ditches and private road easements.
- J. Each permanent dead-end street shall be provided with a turn-around which has a minimum external diameter of 150 feet for right-of-way. The roadway within the turn-around shall have a minimum radius of 56 feet measured from the center of the turn-around.
- K. Road signs for private roads must be properly placed at the intersections of the private road and any public roads. Such signs shall conform to minimize size standards as set by the Road Commission.
- L. A document describing the private road and the provisions for maintenance shall be recorded with the Register of Deeds and also provided to the purchaser. The maintenance provisions shall apportion the maintenance responsibilities among the abutting property owners and shall run with the land.

Section 4. Planning Commission Review for Private Roads.

- A. Plans for private roads shall be submitted to the Township Planning Commission for review and hearing. Plans submitted to the Planning Commission shall include:
 1. A legal description of each property to be served by the private road.
 2. A legal description of the private road easement.
 3. A copy of the proposed private road maintenance agreement.

4. A drawing showing all existing and proposed property lines, structures, roads, drives, bodies of water, and other significant physical features on the properties to be served by the private road and on adjacent properties within three (300) hundred feet.
 5. Engineering plans for the proposed private road which comply with the requirements of this Ordinance.
- B. The Planning Commission shall review the proposed private road at a public meeting. Notice of the Planning Commission meeting shall be sent to all property owners within three (300) hundred feet of the subject property.
 - C. Private road construction shall not begin until the Planning Commission has approved the proposed road by a recorded vote taken at a meeting of the Commission.

Section 5. Inspections, Fees, and Permits for Private Roads.

- A. The Township shall not grant final approval for any private road until the completed road has been inspected for compliance with this Ordinance.
- B. The Township may contract with a civil engineer, the County Road Commission or other public agency to inspect the private road improvements.
- C. The Township Board shall establish fees to cover the cost of review and inspections.
- D. A permit shall be obtained as to compliance with the Michigan Soil Erosion And Sedimentation Act Prior to the commencement of road construction.
- E. Permits shall be obtained from the County Road Commission before entrances are constructed on to county rights-of-way.

Section 6. Appeals.

- A. The Township Board of Appeals shall have jurisdiction to consider appeals for variances from this Ordinance.
- B. A variance may be granted by the Board of Appeals if the applicant can show that he would suffer a unique hardship if the strict requirements of the Ordinance are applied.

Section 7. Severability Clause.

This Ordinance and each section, sub-section, sentence, and provision thereof are hereby declared to be severable. If any part is adjudged by a court of competent jurisdiction to be invalid for any reason, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

Section 8. Repeal.


The former Elba Township Private Road Ordinance, being Ordinance No. 27 adopted on December 17, 1979, is hereby repealed.

Section 9. Penalty.

Any person who shall violate any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof may be imprisoned for a period not exceeding ninety (90) days or fined a sum not to exceed \$500.00 or both, in the discretion of the Court, together with the costs of such prosecution.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this Ordinance was adopted by the Township Board at a meeting duly held on the ____ day of _____, 1992 and was published in the Lapeer County Press on the ____ day of _____, 1992. This Ordinance became effective thirty (30) days after said date of publication.


Gary E. Dow, Supervisor


Diane T. Edgette, Clerk

TOWNSHIP OF ELBA
County of Lapeer

PRIVATE ROAD AND MAINTENANCE AGREEMENT

This Agreement made on the ____ day of _____, _____, by the undersigned, all owners of parcels of land located in Elba Township, Lapeer County, within the following described property:

WHEREAS, the undersigned are all owners of parcels of land which do not have frontage on a public road; and

WHEREAS, the only access to said parcels is by means of a private road which Elba Township and the Lapeer County Road Commission are not obligated or permitted to maintain; and

WHEREAS, the undersigned have all agreed to finance the maintenance of the private road which provides access to their properties;

WHEREAS, the private road involved in this Agreement is described and shown on a survey recorded in Liber _____, Page _____, Lapeer County Records.

NOW, THEREFORE, it is mutually agreed as follows:

1. Private Road Association. There is hereby created a private road association which shall consist of all the owners of parcels of land located within the above-described property. Each landowner shall have one vote in the Association, regardless of the number of parcels of land he might own. The Association shall annually elect a chairman, secretary and treasurer.

2. Annual Meeting. Each year, on or before December 31, the Association members shall meet for the purpose of electing officers and approving a maintenance program and budget for the coming year.

3. Assessment. Each landowner shall pay an annual assessment equal to his proportional share of the budget approved by the Association. The proportion of the budget paid by each landowner shall be equal to the proportion of the total number of parcels of land which he owns.

4. Assessment Collections. All assessment payments shall be made to the treasurer of the Association. Due dates for payments shall be determined by the Association. The treasurer shall place all funds collected in the Association's account at the _____ Bank.

5. Failure to Pay Assessment. If any landowner is in default for any assessment payment for thirty (30) or more days, the Association may place a lien against the property of the landowner and bring suit to collect the assessment, together with any costs of collection.

**TOWNSHIP OF ELBA
County of Lapeer**

**ADOPTION OF MICHIGAN MECHANICAL CODE
ORDINANCE NO. 28
Effective May 3, 1980**

At a regular meeting of the Elba Township Board held on Monday, March 24, 1980, at 7:30 p.m., at the Elba Township Hall, it was moved by Trustee Tallman, supported by Trustee Dow, to adopt the Michigan Mechanical Code.

An Ordinance to designate an enforcing agency to discharge the responsibilities of the Township of Elba under the provisions of the State Construction Code Act (Act 230 of Public Acts of 1972).

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Agency Designated.

Pursuant to the provisions of the Michigan Mechanical Code, in accordance with Act 230 of the Public Acts of 1972, the mechanical official of the Township of Elba is hereby designated as the enforcing agency to discharge the responsibilities of the Township of Elba under Act 230 of the Public Acts of 1972, State of Michigan. The Township of Elba hereby assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

Section 2. Repeal.

All Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. Effective Date.

This Ordinance shall take effect on May 3, 1980.

AYES: John Buelk, Theron Reamer, Wesley Tallman, Mary Ann Dow, Ila Lindsay and James Evans.
NAYS: None
ABSENT: Bonnie Purvis

MOTION CARRIED and ORDINANCE ADOPTED.

**TOWNSHIP OF ELBA
County of Lapeer**

**ADOPTION OF CONSTABLE'S POWERS ORDINANCE
ORDINANCE NO. 29**

At a regular meeting of the Elba Township Board held on Monday, April 28, 1980, at 7:30 p.m., at the Elba Township Hall, it was moved by Trustee Buelk, supported by Trustee Tallman, to adopt the Constable's Powers Ordinance.

An Ordinance to restrict and limit the powers of the township constable in Elba Township, Lapeer County, Michigan, as prescribed by state law.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. State Title.

This ordinance shall be known and cited as the "Constable's Powers Ordinance."

Section 2. Restriction and Limitation of Powers.

Pursuant to the Provisions of Section 82 of RS 1846 (MCL 41.82; MSA 5.74) as amended, all of the powers and duties of the office of constable in the Township of Elba, Lapeer County, Michigan, as set forth by state law are hereby restricted and limited to the following: The constable shall serve all notices and process lawfully directed to him by the township board or township supervisor, and the township constable shall have no other powers or duties.

Section 3. Effective Date.

This Ordinance shall become immediately effective this 28th day of April, 1980, there being no criminal penalties.

AYES: Buelk, Reamer, Tallman, Dow, Lindsay, Evans and Purvis.

NAYS: None.

ABSENT: None.

MOTION CARRIED and ORDINANCE ADOPTED.

TOWNSHIP OF ELBA

County of Lapeer

**ELBA TOWNSHIP STATE ELECTRICAL CODE ENFORCEMENT ORDINANCE
ORDINANCE NO. 30**

Adopted 12/8/80

Effective 1/18/81

An Ordinance to designate the Township of Elba, Lapeer County, Michigan, as the enforcement agency and the Lapeer County Construction Code Authority as the enforcement officer and inspector for the State Electrical Code, in accordance with the provisions of 1972 Public Act 230, as amended and the rules adopted pursuant thereto; and to provide for the establishment of fees.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Short Title.

This Ordinance, No. 30, shall be known and cited as the "Elba Township State Electrical Code Enforcement Ordinance."

Section 2. Designation of Enforcing Agency.

The Township of Elba is hereby designated as the enforcing agency for the State Electrical Code as promulgated by the State Construction Code Commission pursuant to 1972 Public Act 230, as amended.

Section 3. Designation of Inspector and Enforcement Officer.

The Lapeer County Construction Code Authority is hereby designated as the inspector and enforcement officer of the State Electrical Code throughout the unincorporated limits of the Township of Elba.

Section 4. Establishment of Fees.

The fees for permits, bonds, or inspections required for the enforcement of said State Electrical Code shall be established by the Board of Directors of the Lapeer County Construction Code Authority.

Section 5. Effective Date.

This Ordinance shall take effect on the 18th day of January, 1981.

AYES: Buelk, Beattie, Stock, Dow, Lindsay, Purvis, and Evans.

NAYS: None.

MOTION CARRIED and ORDINANCE NO. 30 ADOPTED ON DECEMBER 8, 1980.

TOWNSHIP OF ELBA

County of Lapeer

**BUILDING CODE ORDINANCE
ORDINANCE NO. 31.4**

An Ordinance to adopt the BOCA Basic Building Code, Thirteenth Edition, 1996 for the purpose of regulating the construction, alteration, demolition, removal, placement, and use of all buildings and structures; providing for the issuance of permits, collection of fees, and making of inspections; providing for code enforcement; providing penalties for violations; and repealing the prior ordinance.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Adoption of Building Code.

Pursuant to the authority of Act 230 of the Public Acts of 1972, the Township Board does hereby adopt the "BOCA Basic Building Code, Thirteenth Edition, 1996" as published by the Building Officials and Code Administrators International, Inc. as the Building Code of the Township. All provisions and terms of the "Boca Basic Building Code, Thirteenth Edition, 1996" are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance.

Section 2. Enforcement.

The Building Official for the Township of Elba shall be responsible for enforcement of the Code. The Building Official, together with the Building Inspectors, shall be authorized officials for purposes of issuing municipal civil infractions.

Section 3. Fees.

All fees for permits, bonds, or inspections required by the Building Code shall be established in an adopted fee schedule which may be revised as needed.

Section 4. Availability of Code.

A complete copy of the Building Code shall be available for public use and inspection at the office of the Clerk.

Section 5. Penalty.

Any person, firm or corporation who violates any of the provisions of this ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00, plus costs and other sanctions, for each infraction. Repeat offenses under this ordinance shall be subject to increased fines as provided for in the Civil Infraction Ordinance.

Section 6. Repeal.

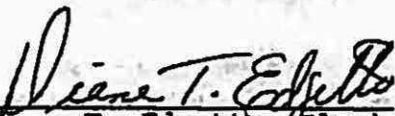
The former Elba Township Building Code Ordinance 31.3, adopted on March 14, 1994 and all other ordinances inconsistent with the provisions of this ordinance are hereby repealed.

Section 7. Effective Date.

This ordinance shall take effect thirty (30) days after the date of publication specified below.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this ordinance was duly adopted by the Elba Township Board at a meeting held on the 24th day of June, 1996 and was published in the Lapeer County Press on the 24th day of July, 1996.


Gary E. Dow, Supervisor


Diane T. Edgette, Clerk

**TOWNSHIP OF ELBA
County of Lapeer**

**UNIFORM TRAFFIC CODE ORDINANCE
ORDINANCE NO. 33
Effective Date: January 2, 1982**

An ordinance to adopt by reference the Uniform Traffic Code for Elba Township.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Code Adopted.

The Uniform Traffic Code for Cities, Townships and Villages promulgated by the Director of State Police and published in the 1979 edition of the Michigan Administrative Code and amendments as published in the quarterly supplement number 5 to the 1979 edition of the Michigan Administrative Code, in accordance with Public Act 62 of 1956 is hereby adopted by reference.

Section 2. References in Code.

References in the Uniform Traffic Code to "governmental unit" shall mean the Township of Elba.

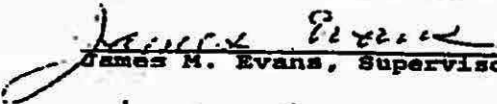
Section 3. Publication of Notices.

The Township Clerk shall publish this ordinance within fifteen (15) days of the date of adoption and shall at the same time publish a supplementary notice setting forth the purpose of the Uniform Traffic Code and of the fact that a complete copy of the code is available at the office of the clerk for inspection by the public.

Section 4. Effective Date.

This Uniform Traffic Code Ordinance shall take effect thirty (30) days after the date of publication of this ordinance.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this ordinance was adopted by the Elba Township Board at a meeting duly held on the 23rd day of November, 1981 and was published in the Lapeer County Press on the 2nd day of December, 1981.


James M. Evans, Supervisor


Lisa C. Lindsay, Clerk

TOWNSHIP OF ELBA

County of Lapeer

**NOISE CONTROL ORDINANCE
ORDINANCE NO. 34**

An Ordinance to regulate excessive noise which would create a nuisance or disturb the public peace within the Township and to provide penalties for the violation thereof.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. General.

No person shall at any time cause a noise to be created which by its loud or continuous nature is a nuisance to persons occupying nearby properties. This section shall not apply to farm or business operations which are carried on in an area properly zoned for that activity, providing that the activity causing the noise is necessary to the farm or business operation.

Section 2. Motor Vehicles.

No motor vehicle which creates excessive noise shall be operated upon the public roads or other public property located within the Township. For purposes of this section, the term "excessive noise" shall be deemed to mean noise louder than that which would be created if the motor vehicle was equipped with a standard muffler system in good working order.

Section 3. Off-Road Vehicles.

No trail bike, snowmobile, or other vehicle which is not licensed for use upon the public roads shall be operated within the Township unless it is equipped with a muffler which effectively prevents loud noises therefrom.

Section 4. Night Disturbances.

No excessive noise shall be made on any private property within the Township of Elba between the hours of 8:00 p.m. and 8:00 a.m. This section shall include noises created by phonographs, radios, stereo equipment, musical instruments, loud parties, etc. For purposes of this section, the term "excessive noise" shall be deemed to mean any noise which is audible beyond the property lines of the property on which the noise originates and which is audible beyond such property lines at a level louder than the noise caused by ordinary conversation.

Section 5. Dogs.

No person shall permit any dog which is harbored on his premises to create a nuisance by loud, frequent or habitual barking, howling, or other noise.

Section 6. Waiver.

Permission to waive the provisions of this ordinance may be granted by the Township Board for specific events or social occasions.

Section 7. Penalty.

Any person who shall violate a provision of this ordinance shall be guilty of a misdemeanor which shall be punishable by a fine of not more than \$500.00.

Section 8. Repeal.

The former Public Peace Ordinance, being ordinance no. 21 adopted on August 25, 1969, as amended, is hereby repealed in its entirety.

Section 9. Severability.

This ordinance and the various sections and provisions thereof are hereby declared to be severable. If any section or provision is adjudged unconstitutional or invalid, the same shall not affect the validity of the remainder of the ordinance.

Section 10. Effective Date.

This ordinance shall take effect thirty (30) days from the date of publication in a newspaper of general circulation within the Township.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this Ordinance was duly adopted by the Elba Township Board at a meeting held on the 14th day of June, 1982 and was published in the Lapeer County Press on the 23rd day of June, 1982.

James M. Evans, Supervisor
Ila C. Lindsay, Clerk

TOWNSHIP OF ELBA
County of Lapeer

ORDINANCE DESIGNATING ENFORCEMENT OFFICERS
ORDINANCE NO. 35
Effective 4/3/85

An ordinance to authorize certain Township officials to issue and serve District Court appearance tickets pursuant to Public Act 366 of 1984.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1.

The Township Building Inspector, Plumbing Inspector, Mechanical Inspector and Electrical Inspector are authorized to issue and serve District Court appearance tickets for violations of any provision of the Township Building Code, Plumbing Code, Mechanical Code or Electrical Code.

Section 2.

The Township Zoning Administrator is authorized to issue and serve District Court appearance tickets for any violation of the Township Zoning Ordinance.


Section 3.

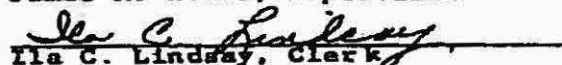
The Township Building Inspector and Zoning Administrator are authorized to issue and serve District Court appearance tickets for any violation of the Junk Yard Ordinance, Dilapidated Buildings Ordinance and Blight Ordinance.

Section 4.

The Township Fire Chief is authorized to issue and serve District Court appearance tickets for any violation of the Township Fire Ordinance.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this ordinance was duly adopted by the Elba Township Board at a meeting held on the 25th day of March, 1985 and was published in the Lapeer County Press on the 3rd day of April, 1985. This ordinance was made effective upon said date of publication.


James H. Evans, Supervisor


Elia C. Lindsay, Clerk

TOWNSHIP OF ELBA
County of Lapeer

FRANCHISE GRANTED TO
THE DETROIT EDISON COMPANY
ORDINANCE NO. 36

April 22, 1985

Confirmed by Vote of Electors

. June 25, 1985

THE TOWNSHIP OF ELBA ORDAINS:

Section 1.

Permission is hereby granted to The Detroit Edison Company, a Michigan corporation, its successors and assigns, to construct, maintain and operate in the public streets, highways, alleys and other public places in the Township of Elba, Lapeer County, Michigan, all needful and proper poles, towers, mains, wires, pipes, conduits and all such lines and other apparatus requisite for the transmission, transforming and distribution of electricity for public and private use, and to transact a local electric business within said Township subject, however, to all conditions and restrictions hereinafter contained.

Section 2.

The conditions of the foregoing grant are as follows:

- A. The grantee shall do no injury to any street, highway, alley or other public place, or to any shade trees, or in any manner disturb or interfere with any water or gas pipes, or with any public or private sewer, now or hereafter laid or constructed by any authorized person or corporation.
- B. The trimming of trees when necessary to make the lines safe and accessible, shall be done in compliance with all existing governmental laws, ordinances, rules and regulations.
- C. The construction of the said lines shall be in accordance with the rules and regulations of the Michigan Public Service Commission or its successor.
- D. The said grantee, before entering upon any street, highway, alley or other public place for the purpose of erecting and constructing any poles, mains, wires, pipes, conduits, or other apparatus, shall notify the Township or its representatives of the proposed construction, and shall, if the Township requires, file with them a sufficient plan and specification, showing the nature and extent of the proposed erection and construction.

- E. No street, highway, alley or public place shall be allowed to remain open or encumbered by the construction work or the said grantee for a longer period than shall be necessary to execute the said work, and the grantee shall at all times conform to all ordinances of the Township now or hereafter in force, relative to the fencing and lighting of obstructions and excavations.
- F. The grantee shall save the Township harmless from any judgment that may be recovered against the Township by reason of the wrongdoing or negligence of the said grantee in the erection and maintenance of said poles, mains, wires and other apparatus or construction.
- G. Said grantee shall make due provisions upon five days notice in writing by raising its wires or otherwise, for the passage of any barn, building or other structure on or over any street, highway, or public place occupied by the mains, wires, poles and apparatus of said grantee.

Section 3.

In consideration of the granting of this franchise, grantee agrees that its rates and charges for electric service in the Township of Elba shall not exceed its rates and charges for like service elsewhere in its service area, as evidenced by its uniform rate schedules at the time on file with and approved by the Michigan Public Service Commission. It is understood that the grantee is subject to regulation by the Michigan Public Service Commission and that any order, rule, or regulation by that Commission, or its successor, will prevail over any regulation herein contained or provided for in case of conflict.

Section 4.

This grant shall take effect if said grantee shall, within fifteen days from the date of the passage of this Ordinance, file with the Township Clerk its written acceptance of the terms of the same, and upon the confirmation of this grant, by the affirmative vote of a majority of the electors of said Township, voting thereon at a special election to be held on Tuesday, the 25th day of June, 1985, as provided for by the Statutes and the State Constitution.

If not confirmed by the electors voting on the franchise at said election, this Ordinance shall be null and void.

Section 5.

This Franchise and Ordinance shall be and remain in force for thirty (30) years from and after the date of its confirmation by the electors of the Township of Elba, Lapeer County, Michigan.

Section 6.

Nothing in this grant shall be construed to alienate the title of the public in and to any street, highway, alley or public place or any portion thereof, neither shall anything herein be construed in any manner as a surrender by the Township of Elba of its legislative power with respect to the subject matter hereof, or with respect to any other matter whatsoever; nor as in any manner limiting the right of the said Township of Elba to lawfully regulate the use of any street, avenue, highway or public place within its jurisdiction, as to all other matters.

Dated 22nd day of April, 1985

James H. Evans
TOWNSHIP ~~VILLAGE~~ SUPERVISOR
Ila C. Lindsay
TOWNSHIP ~~VILLAGE~~ CLERK
Nina M. Suter
TOWNSHIP ~~VILLAGE~~ TREASURER

Confirmed by Vote of Electors June 25, 1985

TOWNSHIP OF ELBA
LAND DIVISION ORDINANCE
ORDINANCE NO. 37.3

An ordinance to repeal Ordinance No. 37.2 and adopt a new Land Division Ordinance that is consistent with State law and harmonious with other Township Ordinances.

THE TOWNSHIP OF ELBA ORDAINS:

- Section 1. COMPLIANCE.** No land within the township shall be divided without the prior review and written approval by the township assessor for compliance with this ordinance and the Michigan Land Division Act. No parcels of land divided after March 31, 1997 shall be placed on the township tax roll until compliance has been verified by the assessor. No building or zoning permits shall be issued for parcels of land divided in violation of the ordinance.
- Section 2. LAND DIVISION REQUIREMENTS.** An applicant for land division approval shall provide the assessor with documented proof that the following requirements have been met before any land division can be approved:
- A. A fully completed township application form.
 - B. A tentative land division map (to scale) showing:
 - 1. Area of each resulting parcel.
 - 2. Proposed property lines of each resulting parcel.
 - 3. Public utility easements to each resulting parcel.
 - 4. Road accessibility for each resulting parcel.
 - 5. All existing buildings, structures and drives.
 - C. Compliance with a depth to width ratio of not more than 4 to 1 for each resulting parcel of ten (10) acres or less, except for one parcel retained by the proprietor.
 - D. Compliance with the minimum lot width requirements of the Township Zoning Ordinance for each resulting parcel as defined in Article XVIII, Section 18.01, of Ordinance 200.
 - E. Compliance with the minimum lot area requirements of the Township Zoning Ordinance for each resulting parcel as defined in Article XVIII, Section 18.01, of Ordinance 200.
 - F. Road accessibility for each resulting parcel by:
 - 1. Public road frontage which meets Road Commission driveway location standards; or
 - 2. Frontage on a private road which complies with the Township Private Road Ordinance.
 - G. A survey and legal description of each proposed parcel prepared by a registered Surveyor or engineer.
 - H. An accurate legal description (in the shortest possible form) of the remainder of the land from which the resulting parcels are being taken.
 - I. The proposed land division shall not create more resulting parcels

than the number allowed by the Michigan Land Division Act.
J. Public utility easements must be in place from each proposed parcel to existing public utility facilities, if the land division is to be a "development site."

- Section 3. **DEVELOPMENT SITE.** For the purposes of this ordinance, the term "development site" shall mean any parcel which is used or is intended to be used as a location for a dwelling or other building. The term "development site" shall not include vacant agricultural or forestry land which will not be used as a location for a dwelling or other non-agricultural.
- Section 4. **APPROVAL PERIOD.** The township assessor shall have a review period of forty-five (45) days after documents verifying compliance with each of the requirements listed in Section 2 have been submitted to the assessor.
- Section 5. **FEES.** The Township Board shall establish a fee for processing land division and parcel combination requests. The fee shall be paid before any division or combination is approved.
- Section 6. **VOIDABLE SALE.** The purchaser of any parcel resulting from a land division which violates the Michigan Land Division Act shall have the right to void the sale. If a sale is voided, the Seller shall forfeit all money and other consideration received for the land and shall be liable for damages sustained.
- Section 7. **REPEAL.** The prior Land Division Ordinance, being Ordinance 37.2, adopted on 02-23-1998 is hereby repealed.
- Section 8. **EFFECTIVE DATE.** This Ordinance shall take immediate effect upon publication.

The undersigned Clerk of the Township of Elba hereby certifies that the above Ordinance was adopted by the Elba Township Board on the 12th day of January, 2009, and was published in The County Press on the 28th day of January, 2009.

Voting for: 7

Voting against: 0

The Supervisor declared the Ordinance adopted.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 37.3 which was enacted by the Elba Township Board of Trustees at a regular meeting held on January 12th, 2009.


BRENDA M. O'NEIL
ELBA TOWNSHIP CLERK

**CONSUMERS POWER COMPANY
GAS FRANCHISE ORDINANCE
ORDINANCE NO. 38**

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 Elba, Lapeer County, Michigan for a period of thirty (30) years.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Grant, Term.

The Township of Elba, Lapeer County, Michigan, hereby grants to the Consumers Power 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 and other public places, and to do a local gas business in the Township of Elba, Lapeer County, Michigan for a period of thirty years.

Section 2. Consideration.

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

Section 3. Conditions.

No highway, street, alley, bridge 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.

Section 4. Hold Harmless.

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.

Section 5. Extensions.

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.

Section 6. Franchise Not Exclusive.

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

Section 7. Rates.

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.

Section 8. Revocation.

The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.

Section 9. Michigan Public Service Commission, Jurisdiction.

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.

Section 10. Effective Date.

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 Township and said Grantee.

**TOWNSHIP OF ELBA
County of Lapeer**

**DANGEROUS BUILDINGS ORDINANCE
ORDINANCE NO. 39**

An Ordinance to protect the public health and safety by providing for the repair, demolition, and making safe of dangerous buildings; to define dangerous buildings; to provide for inspections of dangerous buildings; to provide for notices, hearings, and appeals for persons having interests in buildings determined to be dangerous; and to provide for the tax roll assessment of the cost of making dangerous buildings safe.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Dangerous Buildings Defined.

As used in this ordinance, "dangerous building" means any building or structure which has any of the following defects:

- A. 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 township building code for a similar new building or structure.
- B. Whenever any portion of the building or structure is likely to fall or to become dislodged, or to collapse and thereby injure persons or damage property.
- C. Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.
- D. Whenever the building or structure has been so damaged or deteriorated that the interior of the building is exposed to elements and is accessible to entrance by trespassers and may become an attractive nuisance to children who might play therein to their danger.
- E. Whenever a building or structure used or intended to be used for dwelling purposes, 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 or is likely to work injury to the health, safety or general welfare of those living in or near it.

Section 2. Inspection.

The building inspector shall inspect and file a report on all buildings and structures which he believes to be dangerous buildings as defined in this ordinance.

Section 3. Notice.

When the whole or any part of any building or structure is found to be in a dangerous condition, the Building Inspector shall issue a notice which shall specify the nature of the dangerous condition and the repair or demolition necessary to make the building or structure safe.

- A. The notice shall be directed to the person or persons in whose name the property appears on the most recent township tax assessment records.
- B. The notice shall specify the time and place of a hearing before the township board at which the person or persons to whom the notice was directed shall have the opportunity to contest the findings of the building inspector.
- C. All notices shall be sent by regular mail or otherwise delivered at least ten (10) days before the date of the hearing described in the notice.

Section 4. Hearing.

The township board shall conduct a hearing reviewing the findings of the building inspector. All relevant information provided by the owners or other persons interested in the property and all relevant information provided by the building inspector shall be considered.

- A. If it is determined by the Township Board that the building or structure is not dangerous or unsafe, no further action shall be taken.
- B. If it is determined by the Township Board that the building or structure should be repaired, demolished, or otherwise made safe, it shall so order, fixing a time within which compliance must be completed.
- C. A copy of the decision of the Township Board shall be sent by regular mail or otherwise delivered to the person or persons to whom the original notice was sent.

Section 5. Compliance.

Complying with a Township Board decision to require the repair, demolition, or making safe of a building or structure shall be the responsibility of the duly notified persons having an interest in the property.

Section 6. Failure to Comply; Lien.

If the responsible persons do not comply with the Township Board's decision within the time specified, the Township may arrange to have the required repair, demolition, or other work completed. The cost of such required repair, demolition, or other work shall be a lien against the real property on which the building or structure is located and shall be assessed against said real property on the next tax roll.

Section 7. Appeal.

A person affected by a Township Board decision requiring the repair, demolition, or other work on a building or structure in which said person has an interest, may appeal the decision to the Circuit Court by filing an action within twenty (20) days from the date of the decision by the Township Board.

Section 8. Repeal.

The former Dilapidated Buildings Ordinance, being Ordinance number 11 adopted on January 13, 1958 is hereby repealed in its entirety.

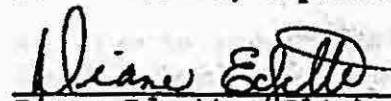
Section 9. Enactment and Effective Date.

This Ordinance shall become effective upon the date of publication.

We, the undersigned, Supervisor and Clerk of the Township of Elba, Lapeer County, Michigan, do hereby certify that this Ordinance was passed by the Elba Township Board on the 11th day of December, 1989, and was published in the Lapeer County Press on the 20th day of December, 1989.



J. Leo Stock, Supervisor



Diane Edgette, Clerk

TOWNSHIP OF ELBA

County of Lapeer

**WETLANDS AND WATERWAY ORDINANCE
ORDINANCE NO. 40.1**

An Ordinance to protect the wetlands and waterways within the township to preserve the economic, health, aesthetic, environmental, and recreational values associated with wetlands and waterways; to establish standards and procedures for the review of proposed activities in wetlands and waterways; to provide for the issuance of use permits for approved activities; and to establish penalties for violation of the ordinance.

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THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Statement of Purpose.

Wetlands and waterways are indispensable and sensitive natural resources subject to flooding, erosion, soil bearing capacity limitations, and other hazards. In their natural state, wetlands and waterways serve multiple functions for flood control, storm water storage and release, pollution control, erosion control, wildlife habitat, aesthetics, open space, and recreation. The loss of wetlands and waterways constitutes a threat to public health, safety, and general welfare. Pursuant to Michigan Constitution 1963, Article IV, 52, the conservation and development of natural resources of the State is a matter of paramount concern in the interest of the health, safety, and general welfare of the people. It is therefore the policy of the Township:

- 1. To protect wetlands and waterways while taking into account varying economic, ecological, hydrologic, recreational, and aesthetic values.**

2. To provide for the protection, preservation, replacement, proper maintenance, and use of wetlands and waterways in order to minimize disturbance to them and to prevent damage from erosion, siltation, and flooding.
3. To provide for the issuance of permits for approved activities.
4. To establish standards and procedures for the review of proposed activities in wetlands and waterways.

Section 2. Definitions.

The following terms shall have the meanings stated below for purposes of this ordinance:

- A. **ACTIVITY:** Means any use, operation, or action; including but not limited to filling, dredging, excavating, or constructing.
- B. **AQUATIC VEGETATION:** Means plants and plant life forms which naturally occur in, at, near, or predominantly near water.
- C. **BOTTOMLAND:** All land area of a lake, stream, or waterway which lies below the ordinary high water mark. Such land may or may not actually be covered by water.
- D. **BUFFER ZONE:** An area of designated width following waterway shorelines.
- E. **CHANNEL:** The geographical area within the banks of a waterway required to convey flowing water under normal flow conditions.
- F. **DRAINAGEWAY:** Any drain, pipe, stream, creek, or swale which serves to transport water runoff to the primary watercourse system.
- G. **ELBA TOWNSHIP WETLANDS MAP:** The official wetlands map of the Township of Elba, as amended or updated from time to time.
- H. **FILL MATERIAL:** Any soil, sand, gravel, clay, peat, debris and/or refuse of any kind, or any other material which displaces soil or water or reduces water retention potential.
- I. **ORDINARY HIGH WATER:** The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is markedly distinct from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake which has a level established by law, the ordinary high water mark means the established high level. When water returns to its natural level as a result of the permanent removal or abandonment of a dam, "ordinary high water" means the natural ordinary high water mark.
- J. **MDEQ:** The Michigan Department of Environmental Quality.

- K. **OWNER:** Any person who has dominion over, control of, title to, and/or any other proprietary interest in wetland and waterway areas; or title to an obstruction, natural or otherwise, to wetland and waterway properties.
- L. **PERSON:** Any individual, firm, partnership, association, corporation, company, organization, or legal entity of any kind, including governmental agencies.
- M. **RUNOFF:** Surface discharge of precipitation to a waterway or low area.
- N. **SEASONAL:** Any intermittent or temporary activity which occurs annually and is subject to interruption from changes in weather, water level, or time of year, and may involve annual removal and replacement of a device or structure.
- O. **STRUCTURE:** Any assembly of materials above or below the surface of the land or water, including but not limited to houses, buildings, bulkheads, piers, docks, landings, dams, waterway obstructions, towers, and utility transmission devices.
- P. **TEMPORARY:** A time period as specified in the use permit, or if unspecified, means an uninterrupted time period of less than six (6) months in duration.
- Q. **UPLAND:** The land area adjoining a lake, stream, watercourse, or wetland above the ordinary high water mark and the uses of which are essentially non-aquatic.
- R. **WATERWAYS:** Any drainageway, drain, river, stream, lake, pond, or retention basin, or any body or surface water having well defined banks whether continually or intermittently flowing. Waterways subject to regulation are designated on the Elba Township Wetlands Map.
- S. **WETLANDS:** Lands characterized by the presence of water at a frequency and duration sufficient to support, and under natural circumstances does support, wetland vegetation or aquatic life and are commonly referred to as a bog, swamp, or marsh, and which is any of the following:
1. Contiguous to an inland lake or pond, or a river or stream.
 2. Not contiguous to an inland lake or pond, or a river or stream; and more than five (5) acres in size; except this subparagraph shall not be of effect, except for the purpose of inventorying, until the MDEQ certifies it has substantially completed its inventory of wetlands in Lapeer County.
 3. Not contiguous to an inland lake or pond, or a river or stream; and five (5) acres or less in size. If the MDEQ determines that protection of the area is essential to the preservation of the natural resources of the State from pollution, impairment, or destruction and the MDEQ has so notified the owner; except this subparagraph may be utilized regardless of wetland size when subparagraph (19b.) is of no effect; except for the purpose of inventorying, at the time.
- T. **WETLANDS OFFICIAL:** A person or persons designated by the Elba Township Board authorized to inspect, survey or study wetlands and waterways in the Township.

Section 3. Lands To Which Ordinance Applies:

- A. All wetlands including but not limited to a twenty (20) foot buffer zone on each side of Farmers Creek and Hasler Creek and a ten (10) foot buffer zone on each side of all other streams and drains illustrated on the Elba Township Wetlands Map.
- B. All wetlands of two (2) acres or more.
- C. All other wetlands determined by the Township to be essential for preventing pollution, impairment, or destruction of natural resources systems and the environment and which are so designated on the Elba Township Wetlands Map.
- D. All retention and detention facilities constructed for the purpose of collecting and/or directing runoff water onto any wetlands or waterways as identified on the Elba Township Wetlands Map.

Section 4. Elba Township Wetlands Map:

- A. The wetlands to which this ordinance applies are hereby designated on the Elba Township Wetlands Map which accompanies this ordinance. All notations, references, and information shown thereon, shall be as much a part of this ordinance as if fully described herein. This map does not necessarily include all of the wetlands within the Township that may be subject to this ordinance. A wetlands inventory map does not create any legally enforceable presumptions regarding whether property that is or is not included on the wetlands map is or is not a wetland.
- B. If, because of problems with scale or detail, there is any ambiguity as to whether a particular area is part of a wetlands, that determination shall be made by the Township Planning Commission (with assistance from the wetlands official), which will review the use or activity for that area.
- C. The Planning Commission shall make recommendations to the Township Board for revisions to the Elba Township Wetlands Map whenever new and substantial data for wetlands and waterways becomes available. Whenever the wetlands map is proposed to be amended, notice of the proposed amendment and meeting date shall be given to all owners of property affected not less than eight (8) days nor more than fifteen (15) days prior to the meeting at which the proposed amendment is recommended for adoption by the Planning Commission.

Section 5. Notice To Michigan Department Of Natural Resources.

The Township shall notify the MDEQ of the adoption of this ordinance. The Township shall enter into an agreement with the MDEQ providing for the exchange of information and for the coordination of the granting of permits, as required by Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended.

Section 6. Property Inspection.

The wetlands official may make reasonable entry upon any lands or water within the Township for the purpose of enforcement of this ordinance or to conduct investigations, surveys, or studies pursuant to this ordinance.

Section 7. Prohibited Activities.

Except for those activities expressly permitted by Section 8, it shall be unlawful for any person to conduct any activity within a wetlands area without first having obtained a use permit. Activities requiring a use permit include, but are not limited to, the following:

- A. Depositing or permitting the placing of any fill material into, within, or upon any waterways or wetland area.
- B. Dredging, removing or permitting the dredging or removal of material or minerals from a waterway or wetland area.
- C. Draining or causing to be drained, surface water from a wetland.
- D. Constructing, operating or maintaining any land use or development in a waterway or wetland area.
- E. Enlarging, diminishing, or altering any lake, stream, or other naturally occurring waterway.
- F. Creating, enlarging or diminishing any natural or artificially constructed canal, channel, ditch, lagoon, pond, lake, or other waterway for navigation or any other purpose, whether or not connected to an existing lake, stream, or waterway.
- G. Constructing, placing, enlarging, extending, or removing any temporary, seasonal, or permanent operation or structure upon bottomland or wetlands, except seasonal docks, rafts, diving platforms, and other water recreational devices customarily owned and used by individual households.
- H. Constructing, extending, enlarging, or connecting any conduit, pipe, culvert, open or closed drainage facility carrying storm water runoff from any site, or any other land use permitting discharge of silt, sediment, organic or inorganic material(s), chemicals, fertilizers, flammable liquids, or other polluting substances except in accordance with requirement of Federal, State, County agencies and the Township of Elba.
- I. Constructing, enlarging, extending, or connecting any private or public sewage or waste treatment plan discharge to any lake, pond, stream, waterway, or wetland except in accordance with requirements of Federal, State, County agencies and the Township of Elba.
- J. Pumping surface water for irrigation or sprinkling of private or public uses, other than for individually owned single-family residences, from lakes, ponds, rivers, streams, or waterways, except when the water body is wholly contained within the user's property.

- K. Erecting or building any structure, including but not limited to, buildings, roadways, bridges of any type, tennis courts, paving, utility or private poles, or towers within or upon any waterway or wetland area.
- L. Developments that increase in use or human density upon a wetland or waterway that would threaten the natural character of the resource or produce a recreational impact beyond the capacity of the land and/or stream to provide for the health and safety of existing users.

Section 8. Activities Not Requiring A Permit.

The following uses are allowed in a wetland without a permit, but may be subject to State Laws:

- A. Fishing, trapping, or hunting.
- B. Swimming or boating.
- C. Hiking.
- D. Grazing of animals.
- E. Farming, horticulture, silviculture, lumbering, and ranching activities, including plowing, irrigation, irrigation ditching, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices. Wetland altered under this subdivision shall not be used for a purpose other than a purpose described in this subsection without a permit.
- F. Maintenance or operation of serviceable structures in existence on October 1, 1980 or constructed pursuant to this part (Part 303) or former Act No. 203 of the Public Acts of 1979.
- G. Construction or maintenance of farm or stock ponds.
- H. Maintenance, operation, or improvement which includes straightening, widening, or deepening of the following which is necessary for the production or harvesting of agricultural products:
 - 1. An existing private agricultural drain.
 - 2. That portion of a drain legally established pursuant to the drain code of 1956, Act No. 40 of the Public Acts of 1956, being sections 280.1 to 280.630 of the Michigan Compiled Laws, which has been constructed or improved for drainage purposes.
 - 3. A drain constructed pursuant to other provisions of this part (Part 303) or former Act No. 203 of the Public Acts of 1979.
- I. Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining or forestry equipment, if the roads are constructed and maintained in a manner to assure that any adverse effect on the wetland will be otherwise minimized.

- J. Drainage necessary for the production and harvesting of agricultural products if the wetland is owned by a person who is engaged in commercial farming and the land is to be used for the production and harvesting of agricultural products. Except as otherwise provided in this part, wetland improved under this subdivision after October 1, 1980 shall not be used for nonfarming purposes without a permit. This subdivision shall not apply to a wetland which is contiguous to a lake or stream, or to a tributary of a lake or stream, or to a wetland that the MDEQ had determined by clear and convincing evidence to be a wetland that is necessary to be preserved for the public interest, in which case a permit is required.
- K. Maintenance or improvement of public streets, highways, or roads, within the right-of-way and in such a manner as to assure that any adverse effect on the wetland will be otherwise minimized. Maintenance or improvement does not include adding extra lanes, increasing the right-of-way, or deviating from the existing location of the street, highway, or road.
- L. Maintenance, repair, or operation of gas or oil pipelines and construction of gas or oil pipelines having a diameter of six (6) inches or less, if the pipelines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.
- M. Maintenance, repair, or operation of electric transmission and distribution power lines and construction of distribution power lines, if the distribution power lines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.
- N. Operation or maintenance, including reconstruction of recently damaged parts, of serviceable dikes and levees in existence on October 1, 1980 or constructed pursuant to this part or former Act No. 203 of the Public Acts of 1979.
- O. Construction of iron and copper mining tailings basins and water storage areas.
- P. Actions taken in times of emergency, including the repair or restoration of public roads, electrical lines, natural gas lines, storm drainage systems, when immediate action is necessary to protect public health or safety or to prevent damage to property. A person taking such emergency action shall within fourteen (14) days thereof provide a report to the Township Planning Commission, which shall make a determination as to whether the resulting activities were reasonably necessitated by the emergency situation. To the extent the resulting damage exceeds that reasonably necessitated by the emergency situation, the person shall be subject to penalty for violation of this ordinance.
- Q. Installation on lakes, for noncommercial use, of any type of dock, boat hoist, ramp, raft or other recreational structure which is placed in a lake and removed at the end of the boating season.
- R. Where a final subdivision plan or final site development plan containing work as defined in this article has been reviewed and approved the Planning Commission in conformance with the requirements of this article, such approval, together with any

additional terms and conditions attached hereto, shall be considered to have completed the requirements for a permit under this ordinance, which shall then be issued by the Township.

Section 9. Nonconforming Activities.

An activity that was lawful before the adoption date of this ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following:

- A. No such activity shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity with this ordinance.
- B. If a building existing before the adoption of this ordinance is destroyed by fire or natural disaster it may be allowed to be reconstructed with the same dimensions and shape as the original structure if approved by the Township Planning Commission and the Township Building Inspector.
- C. If a nonconforming activity is discontinued for twelve (12) consecutive months, any resumption of the activity must conform to this ordinance.
- D. Activities that are or become nuisances shall not be entitled to continue as nonconforming activities.

Section 10. Use Permit Application Process - Residential.

- A. Applicant shall first apply to Construction Code Authority (CCA) for residential construction and zoning permit application.
- B. CCA shall perform a cursory review of the residential construction and zoning permit application to determine if the proposed activity is located within a flood plain or within five hundred (500) feet of a lake, stream, drain or wetland.
- C. If a potential impact exists based on CCA's review, the Township shall be notified by the CCA and a copy of the permit application transmitted to the Planning Commission for review. The applicant shall submit a permit review fee to the Township as defined in Attachment 2.
- D. The Planning Commission shall notify the wetlands official to perform a preliminary review of the residential construction and zoning permit application to determine if the proposed activity described in the application complies with the provisions of this ordinance.
- E. If the proposed activity will not impact a wetland or waterway, the wetlands official shall recommend approval of the application.
- F. If the impact of the proposed activity cannot be determined from the preliminary review, the wetlands official will inspect the property to determine compliance and the degree of impact, if any. The inspection shall be performed within five (5) business days after the review of the application. Prior to the inspection, the applicant shall submit a site inspection fee to the Township in accordance with Attachment 2.

- G. If the proposed activity will impact a wetland or waterway, the wetlands official will recommend disapproval of the residential construction and zoning permit application.**
- H. Following the residential construction and zoning permit application review process, applicants who wish to submit a wetlands use permit shall submit the following materials to the Township Clerk as part of the wetlands use permit application:**
- 1. The name, address, and telephone number of the applicant and or the applicant's agent.**
 - 2. The name, address, and telephone number of the owner of the property.**
 - 3. The project location, including as applicable, the street, road or highway, section number, name of subdivision, and name and location of any wetlands or waterways which will or may be impacted.**
 - 4. A description of the wetland on which the use or development is to be made.**
 - 5. A detailed description and statement of the purpose of the proposed activity.**
 - 6. The location and number of trees to be removed of three (3) inch caliper or greater (the caliper of a tree is its diameter at four and one-half (4½) feet above the ground).**
 - 7. The amount and type of material to be removed or deposited and any proposed grading.**
- I. The applicant shall submit a wetland use permit application fee in an amount established by the Township Board and presented in Attachment 2 of this ordinance, prior to the use permit being reviewed.**
- J. When the applicant is not the owner of the property, a written authorization from the owner agreeing to the proposed activity shall be provided to the Township as part of the use permit application.**
- K. When, in the opinion of the Planning Commission or wetlands official, a proposed residential project has the potential to cause significant damage or impact to a wetlands area or waterway, a site plan, including topographical survey, sealed by a registered engineer or registered surveyor, shall be provided to the Planning Commission in accordance with the Township Engineering Ordinance. Eight (8) copies shall be provided to the Planning Commission for review. The site plan must include the following information:**
- 1. The shape and dimensions of the lot or parcel, together with the existing and proposed locations or structures and improvements, if any.**
 - 2. Specification of the extent of all areas to be disturbed, the depths at which removal or deposition activities are proposed, and the angle of repose of all slopes of deposition material, and/or sides of channels or excavation resulting from removal operations.**

3. Existing general soil conditions throughout the parcel.
4. Location and dimensions of all setbacks, easements, and existing and proposed public and private utilities.
5. Statements as to grade changes proposed and proposed drainage pattern changes for the lot or parcel and how such changes will affect these regulations. Existing contour data for the entire property with a vertical contour interval of no more than one (1) foot for all areas to be disturbed by proposed operations, extending for a distance of at least fifty (50) feet beyond the limits of such areas. Indicated elevations shall be based on United States Geological Survey datum.

Section 11. Use Permit Application Process – Commercial/Industrial.

- A. Provide a site plan to the Township Clerk that meets the requirements set forth by the Township Engineering Ordinance for commercial or industrial businesses.
- B. The Planning Commission will conduct a preliminary review of the site plan. If thorough site plan review is required, the wetlands official will review the site plan to determine if the proposed activities comply with the provisions of this ordinance. The applicant will submit a review fee to the Township in advance of the review in accordance with Attachment 2.
- C. If the proposed activity will not impact a wetland or waterway, the wetlands official will notify the Planning Commission of same in writing.
- D. If the impact of the proposed activity cannot be determined from the preliminary review, the wetlands official will inspect the property to determine compliance and the degree of impact, if any. The inspection will be performed within five (5) business days after the review of the application. Prior to the inspection, the applicant will submit a site inspection fee to the Township in accordance with Attachment 2.
- E. If the proposed activity will impact a wetland or waterway, the wetlands official will recommend disapproval of the site plan on this basis.
- F. Following the preliminary site plan review process, applicants who wish to submit a wetlands use permit shall complete a wetlands use permit application. The wetlands use permit application for the development of commercial or industrial properties shall include a site plan based on a topographical survey, sealed by a registered engineer or registered surveyor, and shall be provided to the Planning Commission in accordance with the Engineering Ordinance. Eight (8) copies shall be provided to the Planning Commission for review. The site plan must also include the following information required for the wetland use permit application:
 1. The shape and dimensions of the lot or parcel, together with the existing and proposed locations or structures and improvements, if any.

2. Specification of the extent of all areas to be disturbed, the depths at which removal or deposition activities are proposed, and the angle of repose of all slopes of deposition material, and/or sides of channels or excavation resulting from removal operations.
3. Existing general soil conditions throughout the parcel.
4. Location and dimensions of all setbacks, easements, and existing and proposed public and private utilities.
5. Statements as to grade changes proposed and proposed drainage pattern changes for the lot or parcel and how such changes will affect these regulations. Existing contour data for the entire property with a vertical contour interval of no more than one (1) foot for all areas to be disturbed by proposed operations, extending for a distance of at least fifty (50) feet beyond the limits of such areas. Indicated elevations shall be based on United States Geological Survey datum.

Section 12. Review of Wetlands Use Permit Applications.

- A. The granting or denying of all wetlands use permits shall be the responsibility of the Township Planning Commission based upon the standards of this ordinance and the Township Zoning Ordinance.
- B. Prior to determination by the Planning Commission on the use permit application, notice of the application and the date, time, and location of a Planning Commission meeting at which the application will be considered shall be published in a paper of general circulation within the Township. A copy of the notice shall be mailed to those persons to whom property adjacent to the parcel on which the proposed activity is to be located is assessed. The notice shall include a date prior to which written comments regarding the application may be submitted for consideration.
- C. Whenever a wetlands use permit application is denied, the reasons for denial shall be stated in the minutes.
- D. Whenever a wetlands use permit is granted, the Planning Commission, in writing to applicant, shall:
 1. Impose such conditions on the manner and extent of the proposed activity or use as are necessary to ensure that the intent of this ordinance is carried out and that activity or use will be conducted in such a manner as to cause the least possible damage, encroachment or interference with natural resources and natural process within the waterway and/or wetland area;
 2. Fix a reasonable time within which the wetland operation must be completed.
 3. Require the filing with the Township Clerk a cash bond or irrevocable, non-transferable, letter of credit in such form and amount as determined necessary by the Township to ensure compliance with the approved use permit;
 4. Notify the applicant that this permit is granted under the following limitations:

- a. Authority granted by this permit does not waive permit requirements under Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, being Sections 9101 to 9123, or the need to acquire applicable permits from the Lapeer Drain Commission.
 - b. Authority granted under this permit does not waive permit requirements under Part 301 – Inland Lakes and Streams, and Part 303 – Wetlands Protection for State-regulated wetlands.
- E. A permit approved by the Planning Commission shall not be issued until ten (10) business days following the date of approval. Any interested person who is aggrieved by the granting or denying of a use permit may request an appeal of the decision to the Township Board. A request for appeal must be filed within ten (10) business days following the granting or denial. If an appeal is requested during such a ten day period, the issuance of any permit shall be suspended pending the outcome of the appeal. The Township Board, upon review, may reverse, affirm, or modify the determination and/or permit issued by the Planning Commission.

Section 13. Review Standards.

The following standards shall govern the granting or denial of use permit applications:

- A. The proposed activity shall not threaten public health or safety by increasing flooding, erosion, siltation, pollution, or storm water runoff volumes.
- B. The proposed activity shall not interfere with the natural functions of wetlands and waterways, including the flow of waters and nutrients between wetlands and adjacent waterways.
- C. The proposed activity shall not unnecessarily alter the natural grade or soils of any wetland or waterway, or alter the flow of surface or subsurface water to or from the wetland at any season of the year.
- D. The proposed activity shall not result in the destruction of critical wildlife and waterfowl habitat, including habitat important for migratory waterfowl.
- E. The proposed activity shall not interfere with public rights to the enjoyment and use of public waters.
- F. The proposed activity shall not interfere with the scenic, aesthetic, recreational, and educational benefits of wetlands and waterways.
- G. The proposed activity plan must be the least harmful, the most feasible and the most prudent.
- H. The proposed activity must be consistent with the promotion to the public health, safety, and welfare in light of the paramount concern for the protection of its natural resources from pollution, impairment, or destruction.

- I. The proposed activity shall be in compliance with all other applicable statutes and ordinances.

Section 14. Display of Permits.

The person to whom the use permit is granted shall display on the site the permit issued. Such display shall be continuous while work authorized by the permit is being done, and for at least ten (10) days after the completion thereof. Failure to allow entry for inspection by the authorized Township inspector(s) to verify compliance with the permit shall constitute a violation of this ordinance.

Section 15. Taking Without Compensation.

- A. This ordinance shall not be construed to abrogate rights or authority otherwise protected by law.
- B. For the purposes of determining if there has been a taking of property without just compensation under Michigan law, an owner of property who has sought and been denied a permit or has been made subject to modification or conditions in the permit under this ordinance may file an action in a court of competent jurisdiction.
- C. If the court determines that an action of the Township pursuant to this ordinance constitutes a taking of the property of a person, then the court shall order the Township, at the Township's option, to do one or more of the following:
 1. Compensate the property owner for the full amount of the lost value;
 2. Purchase the property in the public interest as determined before its value was affected by this ordinance;
 3. Modify its action with respect to the property so as to minimize the detrimental effect to the property's value; and
 4. Modify its action with respect to the property so that the action will not constitute a taking of the property.

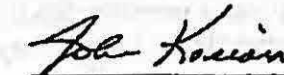
Section 16. Penalties and Enforcement.

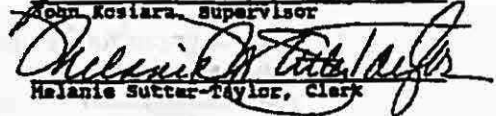
- A. Any person, firm, or corporation or anyone acting on behalf of said person, firm, or organization who shall violate any of the provisions of this ordinance, or who shall fail to comply with any of the conditions of a use permit approved pursuant hereto is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00, plus costs and other sanctions, for each infraction. Repeat offenses under this ordinance shall be subject to increased fines as provided for in the Civil Infraction Ordinance, being Ordinance Number 48.
- B. Any use or activity in violation of the terms of this ordinance is hereby declared to be a nuisance per se, and may be abated by order of any court of competent jurisdiction. The Township Board may institute any appropriate action or proceeding to prevent,

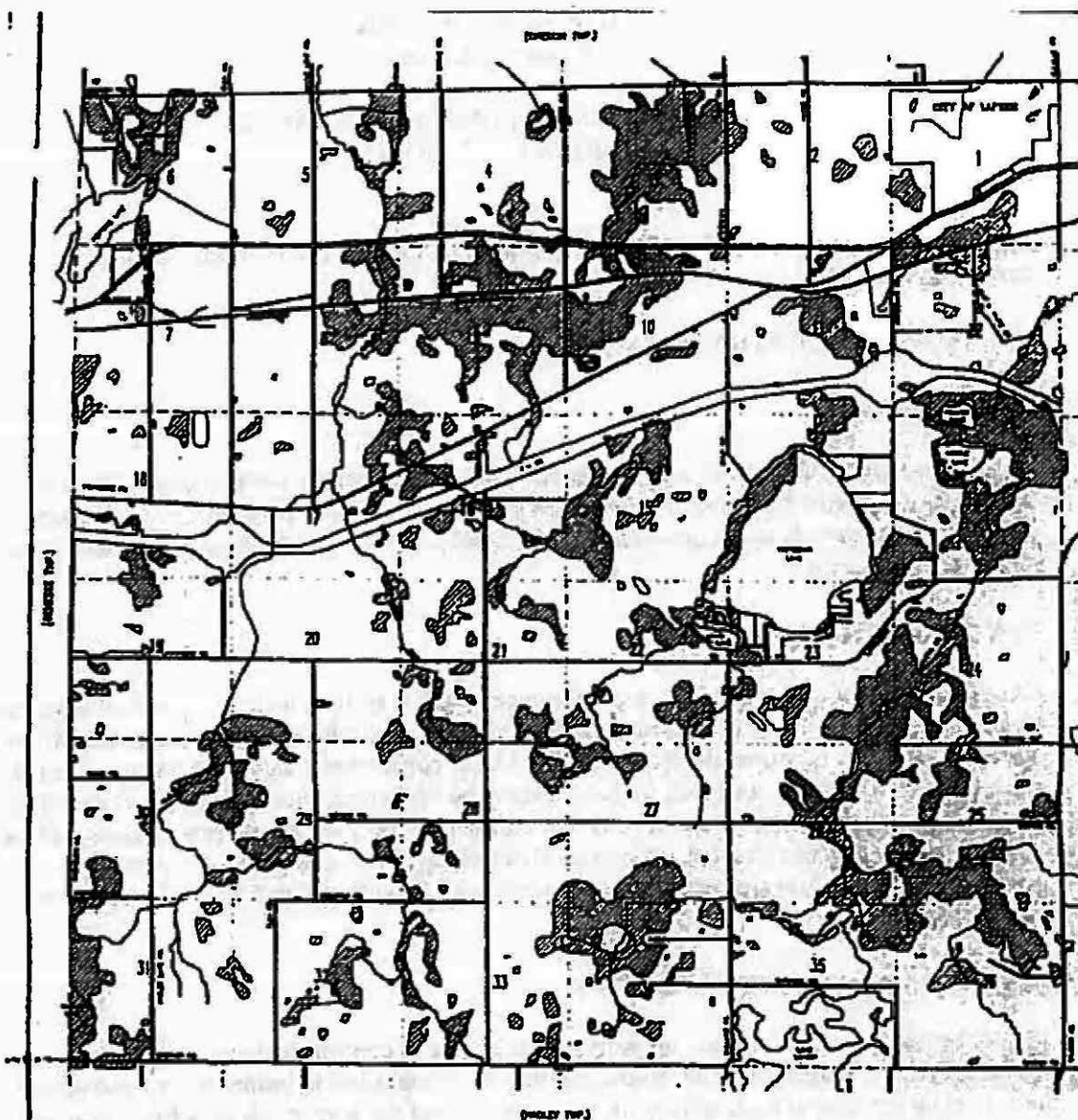
abate, or restrain the violation. All costs, fees, and expenses in connection with such action shall be assessed as damages against the violation.

- C. In the event of a violation, the Township shall have the power to order complete restoration of the wetland area involved by the person(s) or agent responsible for the violation. If such responsible person(s) or agent does not complete restoration within the time specified in the order, the Township shall have the authority to restore the affected wetlands to the prior condition wherever possible and the person(s) or agent responsible for the original violation shall be held liable to the Township for the cost of restoration.
- D. Any person(s) violating the provisions of this ordinance shall be liable to the Township for any expense or loss or damage incurred by the Township by reason of such violation(s).

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this ordinance was duly adopted by the Elba Township Board at a meeting held on the 23rd day of February, 1998 and was duly published in the County Press on the 4th day of March, 1998.

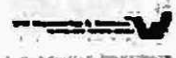

John Kosiara, Supervisor


Melanie Sutter-Taylor, Clerk



**ELBA TOWNSHIP
LAPEER COUNTY, MICHIGAN
WETLANDS MAP
MAP 3**

 **WETLAND AREA**



TOWNSHIP OF ELBA
County of Lapeer

HAZARDOUS MATERIALS ORDINANCE
ORDINANCE NO. 41

An ordinance to require reimbursement for cleanup by the Township of certain dangerous or hazardous materials.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Purpose.

The purpose of this Ordinance is to enable the Township to require reimbursement from those responsible for the leaking, spilling, or otherwise allowing certain dangerous or hazardous substances or materials to escape containment, thereby requiring cleanup and disposal by the Township or its agents.

Section 2. Hazardous Materials.

Hazardous materials are defined as any substance which is spilled, leaked, or otherwise released from its container, which, is dangerous or harmful to the environment or human or animal life, health or safety, or is obnoxious by reason of odor, or constitutes a danger or threat to the public health, safety or welfare; and shall include, but not be limited to, such substances as chemicals and gases, explosives, radioactive materials, petroleum or petroleum products or gases, poisons, biologic agents, flammables and corrosives. Determinations as to whether any particular substance is a hazardous material shall be made by the Township Fire Chief or his authorized representative.

Section 3. Duty To Remove And Clean Up.

It shall be the duty of any person or entity which causes or controls leakage, spillage or any other dissemination of dangerous or hazardous substances or materials to immediately remove such and clean up the area of such spillage in such manner that the area involved is fully restored to its condition before such happening.

Section 4. Failure To Remove And Clean Up.

Any such person or entity which fails to comply with Section 3 hereof shall be liable to and shall pay the Township for its costs and expenses, including the costs incurred by the Township to any party which it engages, for the complete abatement, clean up and restoration of the affected area. Costs incurred by the Township shall include, but shall not necessarily be limited to, the following: actual labor costs of Township personnel, including worker's compensation benefits, fringe benefits, administrative overhead; cost of equipment operation, cost of materials obtained directly by the Township; and cost of any contract labor and materials.

Section 5. Enforcement.

If any person or entity fails to reimburse the Township as above provided, the Township shall have the right to bring an action in the appropriate court to collect such costs. If such person or entity is the owner of the affected property, the Township shall have the right to add any and all costs of clean up and restoration to the tax roll as to such property, and to levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against said property.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this ordinance was duly adopted by the Elba Township Board at a meeting held on the 27th day of August, 1990 and was published in the Lapeer County Press on the 5th day of September, 1990. This ordinance was made effective as of said date of publication.

J. Leo Stock

Leo Stock, Supervisor

Diane T. Edgette

Diane T. Edgette, Clerk

**TOWNSHIP OF ELBA
County of Lapeer**

SANITARY SEWER ORDINANCE

LAKE NEPESSING DISTRICT

ORDINANCE NO. 43

An ordinance regulating the use of public and private sewers and drains; private sewage disposal; the installation and connection of building sewers; and the discharge of sewage and wastes into the Elba Township-Lake Nepessing sewer system; to provide for the connection to and the fixing and collection of rates and charges for the use of the sanitary sewer system; and to provide penalties for ordinance violations.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Scope.

No sewage or wastewater shall be discharged from or onto any premises within the Lake Nepessing Special Assessment District except in compliance with this Ordinance.

Section 2. Definitions.

The meaning of terms used in this Ordinance shall be as follows:

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C., expressed in PPM by weight.

BUILDING DRAIN. That part of a drainage system which receives discharge from drainage pipes inside the walls of the building and conveys it to the building sewer.

BUILDING SEWER. The extension from a building drain to the public sewer or other place of disposal.

CESSPOOL. An underground pit into which raw Domestic Sewage or other untreated liquid waste is discharged and from which the liquid seeps into the surrounding soil or is otherwise removed.

CHEMICAL OXYGEN DEMAND (COD). A measure of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater.

COMPATIBLE POLLUTANT. The pollutants which are treated and removed to a substantial degree by the sewage treatment facility. These pollutants include but are not limited to BOD, SS, pH, and fecal coliform.

CONNECTION FEE. The charge for connection of Building Sewer(s) to the public sewer service connections. This fee represents the cost to each premises of making the system available with sufficient capacity to service said premises.

COUNTY. The County of Lapeer, Michigan.

DISTRICT. The area located in the Township and served by the system as outlined in the attached Appendix I.

DOMESTIC SEWAGE. The liquid wastes from all habitable building and residences and shall include human excrete and wastes from sinks, lavatories, bathtubs, showers, laundries, and all other water-carried wastes of organic nature either singly or in combination thereof.

FULL ASSESSMENTS. The assessments for one or more units of system capacity levied on parcels in the original Lake Nepessing Special Assessment District which had structures in which sanitary sewage or wastes originate existing at the time of setting the roll of said district.

GARBAGE. Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage, and sale of produce.

GRINDER PUMP. The grinder pump which is connected to the building sewer and which grinds and pumps the sewage to the pressure main for transportation to the sewage treatment facility; and all control boards, controls, floats, pumps, storage tanks, and appurtenances thereto.

HALF ASSESSMENT. The assessment for one half unit of system capacity levied on parcels in the special assessment district which did not have structures in which sanitary sewage or wastes originate existing at the time of setting the roll of said district.

HEALTH DEPARTMENT. Lapeer County Health Department.

INDUSTRIAL WASTES. The liquid wastes from industrial processes as distinct from domestic sewage.

INFILTRATION. That portion of ground water which is unintentionally admitted to a sewer.

INSPECTION FEE. The amount charged to each applicant by the Township at the time of application is made to Township for connection to the system to cover the routine cost of inspection and approving the physical connection of a building sewer to the service connection and the issuance of a connection permit.

INSPECTOR. The agency or official responsible for inspecting connections of building sewers to the public sewer or his duly authorized representative, as designated by the Township.

MG/L. Milligrams per liter.

MISCELLANEOUS CUSTOMER FEE. The amount charged to users for miscellaneous services and related administrative costs associated with the system.

MULTIPLE HALF ASSESSMENTS. Multiple half unit of system capacity assessments levied on certain multi-family parcels in the special assessment district. Specifically, these are:

Property Tax Number 088-014-002-00: 44 half assessments
Property Tax Number 008-014-040-00: 30 half assessments.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

NEW SOURCE. Any source, the construction of which is commenced after the adoption of this Ordinance.

NORMAL STRENGTH. Sewage or wastes, the concentration of which do not exceed BOD of 350 mg/l, SS of 350 mg/l, and phosphorus of 20 mg/l, which have a pH between 6.5 and 9.5 and which do not contain a concentration of other constituents which will interfere with the normal sewage treatment process.

NPDES PERMIT. A permit issued pursuant to the National Pollutant Discharge Elimination System prescribed in U.S. Public Law 92-500.

NUISANCE. 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 outlet; or when the odor, appearance, or presence of this material has an obnoxious or detrimental effect on or to the senses and/or health of person; or when it shall obstruct the comfortable use or sale of adjacent property.

OPERATION AND MAINTENANCE. All costs, direct and indirect, inclusive of all expenditures attributable to administration, replacement, and treatment and collection of sewage or wastes, necessary to ensure adequate treatment and collection of sewage or wastes on a continuing basis in conformance with the NPDES permit, and other applicable regulations.

pH. The negative logarithm of the concentration of hydrogen ions in solution, in grams per liter.

PPM. Parts per million.

PERSON. Any individual, firm, company, association, society, corporation or group.

POLLUTANT. Any of various chemicals, substances, and refuse materials such as solid waste, sewer, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat, and industrial, municipal and agricultural wastes which impair the purity of the water and soil.

POLLUTION. The man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of water.

PROPERLY SHREDDED GARBAGE. Garbage that has been shredded or cut to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

PUBLIC HEALTH CODE. Act 368 of the Public Acts of Michigan of 1978, as amended.

PUBLIC SEWER. The System, which is controlled by the Township.

REPLACEMENT. Expenditures and costs for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the system to maintain the capacity and performance for which the system was designated and constructed.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

SEEPAGE PIT. A cistern or underground enclosure constructed of concrete blocks, bricks, or similar material loosely laid with open joints to allow septic tank overflow or effluent to be absorbed directly into the surrounding soil.

SEPTIC TANK. A watertight tank or receptacle used to receive sewage or wastes from flush toilets, sinks, lavatories, bathtubs, showers, laundry drains, and similar waste lines and is intended to provide for the separation of substantial portions of the suspended solids in such sewage or wastes and the partial decomposition by bacterial action on solids so separated.

SERVICE CONNECTIONS. The section of the system designated for connection of building sewer(s) from a specific property parcel, which is an extension of the public sewer laterally from the main collection sewer onto the lot or parcel of property adjacent to the right-of-way of the public sewer mainline, including but not limited to force mains, connector pipes, pump stations, grinder pumps, and appurtenances, but not include the building sewer(s). A "new" service connection is a service connection built after the original system construction and paid for by the owner of premises served by said connection.

SEWER DISPOSAL FACILITIES. Any toilet device, cesspool, seepage pit, septic tank, subsurface disposal system, or other devices used in the disposal of sewage or wastes.

SEWAGE. A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground waters as may be present.

SEWAGE TREATMENT FACILITY. The physical plant designated to receive and treat the raw, untreated sewage or wastes of the properties located in the district and served by the system, including lagoons, outfall piping, ground water monitoring wells, earthwork, roadways, and all appurtenances.

SEWAGE WORKS. All public facilities for collecting, pumping, treating, and disposing of sewage or wastes, including all service connections, mains, the sewage treatment facility and appurtenances.

SEWER. A pipe or conduit for carrying sewage.

SEWER RATES AND CHARGES. The connection fee, inspection fee, user charge, user surcharge, miscellaneous customer fee, and the civil penalty imposed pursuant to this Ordinance.

SLUG. Any discharge of water, sewage, or industrial wastes which, in concentration of any given constituent or in quantity of flow, exceeds, for any period of time longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.

STORM SEWER or STORM DRAIN. A sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

STORM WATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

STRUCTURE IN WHICH SANITARY SEWAGE OR WASTES ORIGINATE. A privately-owned building in which toilet, kitchen, laundry, bathing, or other facilities which generate sewage or wastes are used or are available for use for household, commercial, industrial, or other purposes.

SUBSURFACE DISPOSAL SYSTEM. An arrangement for distribution of septic tank effluent or overflow beneath the ground surface (also referred to as a "drainfield system" or a "soil absorption system").

SUPERVISOR. The supervisor of the Township or his or her authorized representative.

SUSPENDED SOLIDS (SS). Solids that either float on the surface of, or are in suspension in water, sewage or other liquids; and which are removable by laboratory filtering.

SYSTEM. The sewage works and sewage treatment facility and all appurtenances thereto, known generally as the Elba Township-Lake Nepessing Sanitary Sewer System.

SWRC. The State Water Resources Commission or any of its affiliates, the Michigan Department of Health, and Michigan Department of Natural Resources.

TOILET DEVICE. Any device which generates domestic sewage.

TOWNSHIP. The Township of Elba.

TOXIC POLLUTANT. Any pollutant or combination of pollutants which is or can potentially be harmful to public health or environment.

TREASURER. The Treasurer of the Township, or his or her duly authorized deputies, assistants, or agents.

U.S. EPA. The United States Environmental Protection Agency which assures the protection of the environment by abating or controlling pollution on a systematic basis.

UNIT OR UNITS. A standard of measuring the relative quantity of sewage or wastes and the benefits derived from the disposal thereof ordinarily arising from the occupancy of a single

family residential dwelling unit (but such term shall not necessarily be related to actual use arising from any such dwelling unit) and shall be defined or determined from time to time by the Township through its Township Board. Said units are set forth in Appendix II to this Ordinance, according to the type of use to which the properties are put. Any use not enumerated in Appendix II shall, in the discretion of the Township Supervisor, upon authority of the Township Board, assess those units which attach to the property based upon the most similar use enumerated in Appendix II.

USER. Any person who contributes, causes or permits the contribution of wastewater into the sewage works. Users shall be classified as follows:

- A. "Residential User" – A user whose premises (i) serves as domiciles for single or multiple family use and (ii) discharge only domestic sewage. Residential users are classified into the following groups.
 - 1. Users with full assessments.
 - 2. Users with half assessments.
 - 3. Users with multiple half assessments in area served by grinder pumps and pressure sewers. This classification includes tax parcel number 008-014-040-00.
 - 4. Users with full assessments and multiple half assessments in areas served by gravity sewers. This classification refers to tax parcel number 008-014-002-00.
- B. "Governmental User" – A user whose premises (i) are publicly-owned facilities performing government functions (e.g., government office building, post office, library, school) and (ii) discharge primarily only domestic sewage.
- C. "Commercial User" – A user whose premises (i) are privately owned and used to perform and/or sell services and/or products for profit (e.g., retail and wholesale stores, restaurants, motels, gasoline stations) and (ii) discharges primarily domestic sewage.
- D. "Non-Profit User" – A user whose premises (i) are owned or occupied by a non-profit organization pursuant to Section 501 of the Internal Revenue Code of 1986, as amended (e.g., churches, hospitals) and (ii) discharges primarily domestic sewage.
- E. "Industrial User" – A user whose premises (i) are privately owned and are used for manufacturing a product from raw or purchased material and (ii) discharges wastewater used in any way in the manufacturing process in addition to domestic sewage.

USER CHARGE. A charge based on units levied on users of the system for the user's proportionate share of the cost of operation and maintenance (including replacement) of the system.

USER SURCHARGE. A charge imposed on a user of the system who discharges sewage or wastes in excess of normal strength.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.

Section 3. Use Of Public Sewers Required.

- A. No person shall place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the District, any sewage or other prohibited waste.
- B. It shall be unlawful, when sewer and/or treatment facilities are available to discharge to any natural outlet within the District any sewage or other polluted waters.
- C. It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage, unless specifically permitted by the Lapeer County Health Department or as hereinafter provided.
- D. The owner of any structure used for human occupancy, employment, or other purpose for which a public sanitary sewer of the Township is available, is hereby required at his expense to connect such structure directly to the proper public sewer in accordance with the provisions of this Ordinance.
- E. As matters of public health and equipment reliability, each connection to service connections built under the original system construction contract and required hereunder shall be completed no later than one hundred eighty (180) days after the date of construction completion and satisfactory testing of the public sewer and service connection designated for the specific parcel of property. All construction of, testing of, and connection to new service connections required hereunder shall be completed no later than one hundred eighty (180) days after delivery to owner of premises or to owner's contractor of the grinder pump(s) required for said new service connections. Persons who fail to complete a required connection to the public sewer within such one hundred eighty (180) day period shall be liable for a civil penalty equal in amount to the user charges that would have accrued and been payable and the connection been made as required.
- F. Lots for premises located in the District and subdivided into two or more lots or parcels shall not be approved by the Township after the effective date of this Ordinance unless an extension to the public sewer is constructed to and serving all lots in the plat in compliance with the construction and capacity requirements of the Township as reviewed by the Township Engineer, all at the cost of the owner of the premises. This is intended to implement the provisions of the Subdivision Control Act of 1967 (Act 288 of the Public Acts of Michigan of 1967, as amended).

Section 4. Private Sewage Disposal.

- A. Where a public sanitary sewer is not available, the building sewer shall be connected to an approved private sewer disposal system. Any such facilities shall be constructed in compliance with requirements of the Health Department, the Public health Code, and the SWRC.
- B. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Township.
- C. At such time as a public sewer becomes available to a parcel served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this Ordinance, and any septic tanks, cesspools and similar private sewage disposal facilities shall be pumped, filled with sand and abandoned for sanitary use. The private sewage disposal facilities shall be cleared of sludge, any kind of cover removed and be abandoned for sanitary use by filling with suitable materials, or as otherwise required by the Health Department.
- D. The owner shall install, operate and maintain any private sewage disposal facilities in a sanitary manner at all times in accordance with the rules and regulations of the Lapeer County Health Department.

Section 5. Building Sewers and Connections.

The approval of a permit application shall be subject to (a) compliance with all terms of this Ordinance, including all payment required by Section 502 hereof and all orders, rules, and regulations of the Health Department and the SWRC, (b) the availability of capacity in the system, including compatible pollutant capacity, and (c) compliance of the plans and specifications with the following standards for construction:

- A. No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Township. Prior to making any connection, the property owner or his agent shall submit a permit application to the Township. This permit application shall be on a special form furnished by the Township and shall be accompanied by payment of the connection fee, any civil penalty which has accrued, the applicable inspection fee, provision for payment of all costs relating to construction of the service connection, if required, the plans and specifications of all plumbing construction within the premises, and any other information required by the Township.
- B. All costs and expenses incidental to the installation and connection of the building sewer to the public sewer shall be borne by the owner of the property being connected. No such work shall be commenced before such owner obtains the necessary permission to work in the public right-of-way from the Township and the County Road Commission. Said owner shall indemnify the Township from all loss or damage that may directly or indirectly be caused by the installation and connection of the building sewer to the public sewer.
- C. A separate and independent building sewer shall be provided for every building; except where the building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an

adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building.

- D. The building sewer and service connections shall meet the specifications prepared by the Township Engineer. The size of the building sewer shall not be less than four (4) inches in diameter. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to and within three (3) feet of any bearing wall. Where this minimum depth cannot be obtained, the building sewer shall be laid at a minimum grade of one-quarter (1/4) inch per foot, sloping towards the service connection. In all buildings in which any connection, the sewage to be carried by the building drain shall be lifted by means acceptable to the Township and discharged to the service connection.
- E. A building sewer shall be constructed of material approved by the Township which will be water tight to prohibit infiltration. The Township reserves the right to specify and require the encasement of any sewer pipe with concrete, or the installation of the sewer pipe in concrete cradle if foundation and construction are such as to warrant such protection in the opinion of the Township.
- F. The size and slope of the building sewer shall be subject to the approval of the Township, but in no event shall the diameter be less than four (4) inches. The slope of a building sewer pipe shall be not less than one-quarter (1/4) inch per foot, sloping toward the service connection.
- G. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to and within three (3) feet of any bearing wall. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade. The line shall be straight or laid with properly curved pipe and fittings. Changes in direction of greater than 45 degrees shall be provided with clean-outs accessible for cleaning.
- H. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by artificial means approved by the Township and discharged to the service connection. Where the public sewer is more than twelve (12) feet deep measured from established street grade, a riser shall be constructed on the public sewer using methods and materials approved by the Township. All joints and connections shall be made gas-tight and water-tight. Storm water inflow and groundwater infiltration to the building drain or building sewer are strictly prohibited.
- I. All joints and connections shall be made gas-tight and water-tight. All joints shall be approved by the Township.
- J. No building sewer shall be located closer than ten (10) feet to any water well or well pit.
- K. No sewer connection will be permitted unless there is capacity available in all downstream sewer lift stations, force mains and the wastewater treatment plant, including capacity for treatment of BOD and suspended solids.

- L. All extensions and alterations of the system of sewer mains shall be under the supervision of the Township. Each petition for the extension of sewer mains shall be addressed to the Township Board for a determination.
- M. Any owner of property proposing to install a sewer main and dedicate the main to the Township Hall shall, at his own expense, submit plans and specifications for such work to the Township for its approval. After such plans and specifications have been approved by the Township as consistent with the general sewage disposal system and engineering plans and specifications for the sewer disposal system of the Township, the work shall be done under the supervision of the Township. No sewage shall be admitted into such mains until the Township accepts the installation. The provisions of this subsection shall also apply to any installation of sewer mains outside of the Township where permission has been granted to the Township to connect such mains to the Township sewage disposal system.
- N. Connection of the building sewer to the public sewer shall conform to requirements of the building and plumbing code or other applicable rules and regulations of the Township. Any deviation from the prescribed procedures and materials must be approved by the Township.
- O. In addition to plumbing, a connection to the system will consist of furnishing and connection adequate electrical power service, in full conformance with all applicable codes of the Township and the Lapeer County Building Code Authority, from the premises owner's electrical service equipment to the grinder pump control panel or panels, which are part of the system, as required for the particular property. All costs associated with the electrical work and any permits required shall be paid for by the owner of the premises.
- P. All excavations, pipe laying, and backfill required for the installation of building sewers shall be done to conform to requirements and standards approved by the Township. No backfill shall be placed until the work has been inspected and approved by the inspector. Cinders shall not be used as backfill.
- Q. The connection of the building sewer to the public sewer shall be made at the service connection. If no service connection is available, the owner(s) of the parcel shall be responsible for payment of all costs related to construction and installation of the building drain, building sewer, and new service connection, connection of the building sewer to the service connection including, but not limited to, the purchase of pipe and associated structures, engineering, if required, actual costs of construction, backfill, and restoration. The Township's engineer shall determine the exact location and method of cutting into the public sewer to install the service connection and the materials to be used.
- R. No person shall make connection of roof downspouts, exterior footings or foundation drains, areaway drains, storm drains, or other points of entry of surface runoff or groundwater to a building sewer or building drain which, in turn, is connected directly or indirectly to the public sewer.
- S. All excavations for building sewer installations and connection to the public sewer 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 at the cost of the property owner in a manner satisfactory to the Township.

- T. The applicant for a building sewer permit shall notify the inspector when the building sewer is ready for inspection. If the inspector determines that the building sewer has been constructed and installed pursuant to this Ordinance and the permit issued by the Township, the building sewer shall then be connected with the public sewer under the observation of the inspector.
- U. The cost of all repairs, operation, maintenance, and replacements of existing building sewers and their connection to public sewers shall be borne by the property owner. Such owner shall make application to perform such work to the Township.
- V. The cost of all repairs, operation and maintenance, and replacement of the system shall be borne by the Township as part of the Township's budgeted annual expense of the system, subject to the right of the Township to impose a miscellaneous customer fee.

Section 6. Use of the Public Sewers.

- A. No person shall discharge or cause to be discharged, any storm water, surface water, ground water or roof runoff, subsurface drains, cooling water or unpolluted industrial process waters to any public sanitary sewer. No storm sewer or storm drain shall be connected directly or indirectly to the public sewer.
- B. Storm water, ground water, and all unpolluted drainage shall be discharged to the ground surface or to a natural outlet approved by the Township or the WRC.
- C. Except as hereinafter provided by specific limits stated in the Ordinances, no person shall discharge or cause to be discharged, any of the following described waters or wastes to any public sewer:
 - 1. Any waste having a temperature higher than 150 degrees or less than 32 degrees F.
 - 2. Any water or waste which may contain more than 50 parts per million by weight of fat, oil, or grease.
 - 3. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid, or gas.
 - 4. Any garbage that has not been properly shredded.
 - 5. Insoluble, solid or viscous substances capable of causing obstruction to flow in sewers or other interferences with the proper operation of the sewage works, such as, but not limited to: ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, woods, paunch manure; or any other solid or viscous substance.

6. Any waters or wastes having corrosive properties capable of causing damage or hazard to structures, equipment or personnel. The pH of waste discharged into the sewer system must be within 6.5 to 9.5 limits.
 7. Any waters or wastes containing toxic, radioactive, or poisonous wastes exceeding limits established by applicable state and federal regulations.
 8. Any waters or wastes containing suspended solids or any constituent of such character and quantity that unusual attention or expense is required to handle such materials at the wastewater treatment plant.
 9. Any noxious malodorous gas or substance capable of creating a public nuisance.
 10. Grease, oil, wax fats, or any other substances that will solidify or become viscous in the sewer at temperatures between 32° F and 150° F.
 11. Any waters having a chlorine demand in excess of 15 parts per million by weight.
 12. Any waters containing phenols in excess of 0.02 parts per million by weight.
 13. Any waste that may cause a deviation from the NPDES Permit requirements, pretreatment standards or any other state and federal regulations.
 14. BOD in excess of 350 mg/l.
 15. COD in excess of 550 mg/l.
 16. Substances which tend to settle out in the sewer, causing stoppage or obstruction to flow.
 17. Phosphorus in excess of 20 mg/l.
 18. Any live animals or fish.
 19. Suspended solids in excess of 350 mg/l.
 20. Any substance harmful to the system.
- D. Grease, oil and sand interceptors shall be provided when in the opinion of the Township they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Building Inspector and shall be located as to be readily accessible for clearing and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which when bolted in place shall be gastight and watertight.

- E. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.
- F. If any sewage or wastes are discharged, or are proposed to be discharged to the public sewer, and such sewage or wastes contain the substances or possess the characteristics enumerated herein, and which, in the judgment of the Township may have a harmful effect upon the sewage works or sewage treatment facility, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Township may take the actions necessary to:
 - 1. Reject the sewage or wastes from the public sewer;
 - 2. Require pretreatment to the acceptable condition for the discharge of the sewage or wastes to the public sewers;
 - 3. Require control over the quantities and rates of discharge; or
 - 4. Require payment to cover the added cost of handling and treating the sewage or wastes pursuant to Section 9.C and 9.D here of.

If the Township permits the pretreatment or equalization of sewage or waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Township, the Health Department, the SWRC, and subject to the requirements of all applicable codes, ordinances, regulations and laws. No construction of pretreatment facilities shall take place until all necessary approvals are obtained in writing.

- G. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the Township and any user whereby wastes of unusual strength or character may be accepted by the Township for treatment, subject to payment of a user surcharge by the industrial user.
- H. Whenever the Township cannot reasonably observe, sample, and measure the industrial wastes of any business or industry, and they have reasonable cause to believe that said wastes are in violation of the standards imposed by subsection C of this Section, they may require the owner of the premises from which said wastes are discharged to construct and install a suitable control manhole in the building sewer to permit the observation, sampling, and measurement of said wastes. Such manhole when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Township. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.
 - I. All measurements, tests, and analyses of characteristics of industrial wastes shall be conducted on samples obtained at the control manhole. Where no specific control manhole has been constructed, the control manhole shall be considered to be in the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.
 - J. All measurements, tests, and analyses of sewage or waste characteristics described in this Section shall be determined in accordance with the current "Standard Methods

for the Examination of Water and Sewage," as published by the American Public Health Association.

- K. To determine the sewage flow from any establishment, the Township may use one of the following methods:
1. The amount of water supplied to the premises by the Township as shown upon the water meter or, if the premises are not metered, as established by the LCDC as shown upon the water meter or, if the premises are not metered, as established by Township, or
 2. If the premises are supplied with water from private wells or any other source, the amount of water supplied from such sources as estimated by the Township, or
 3. If such premises are used for an industrial or commercial purpose of such a nature that the water supplied to the premises is not entirely discharged into the sewer system, the estimate of the amount of sewage discharged into the sewer system made by the Township, or
 4. A figure determined by the Township by any combination of the foregoing or by any other equitable method.

Section 7. Sewer Rates and Charges.

- A. The system shall, as far as possible, be operated and maintained by the Township on a public utility basis as authorized by State law. The system shall be operated on the same fiscal year as that of the Township. The Treasurer shall annually, on or before May 1 of each year, submit a report to the Township Board on the revenues and expenditures of the system, including a projected budget for the ensuing fiscal year and recommendations for the sewer rates and changes for each ensuing year.
- B. The owners of all premises required by this Ordinance to connect to the system, except as noted below, shall pay a connection fee. The connection fee shall be established by resolution of the Township Board. The initial resolution is attached as Appendix III to this Ordinance. The resolution shall be amended as needed.
- C. A user charge for each premises within the Township connected to the sewer shall be established by resolution of the Township Board. The initial resolution is attached as Appendix III to this Ordinance. The resolution shall be amended as needed.
1. The user charge imposed pursuant to this Section is applicable only to users who discharge normal strength domestic sewage. A user who discharges toxic pollutants or sewage or waste into the system that do not qualify as normal strength sewage shall also pay a user surcharge determined pursuant to Section D below for each day such toxic pollutants or non-qualifying sewage or waste are discharged.
 2. User charges shall begin to accrue as of the first day of the first month following connection of the building sewer to the public sewer.

- D. Any user surcharge shall be determined by resolution of the Township Board and shall be sufficient to provide for the proportional distribution of the increased expense of operation and maintenance of the system to each user contributing toxic pollutants or sewage or waste that does not qualify as normal strength domestic sewage. Factors such as sewage or waste strength, volume, and delivery flow rate characteristics shall be considered and included as a basis for determining the user surcharge.
- E. The Township shall, from time to time, establish and impose on one or more users a miscellaneous customer fee, as necessary, for miscellaneous service, repairs, and related administrative cost 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, excessive inspection services not covered by the inspection fee, costs of repairing and/or replacing a grinder pump or service connection and costs incurred by the Township to shut off and turn on sewer service.
- F. The inspection fee shall be determined from time to time by resolution by the Township and shall be based upon the actual cost to the Township of the inspector.
- G. It shall be the duty of the designated Township representative to bill and collect all sewer rates and charges. The designated Township representative shall mail each user a bill on or before the 10th day of the first month in the quarterly billing period. The bill shall separately itemize the sewer rates and charges. Payment of the bill which is rendered by the designated Township representative is due and payable on or before the 1st day of the second month in the quarterly billing period. Payment of said bill shall be made at a location designated by the Township Board. The quarterly billing periods shall correspond to the quarters of the Township's fiscal year.
- H. If sewer rates and charges are not paid on or before the due date, then a time price differential of 5% per quarter or fraction of a quarter shall be charged on the outstanding balance until paid.
- I. If sewer rates and charges are not paid on or before the due date, the Township, pursuant to Act 178 of the Public Acts of Michigan of 1939, as amended, may (i) discontinue the services provided by the system by disconnection the grinder pump electrical service or closing a shutoff valve in the service connection, and the service so discontinued shall not be reinstated until all sums then due and owing, including time price differential, penalties, interest, and all expenses incurred by the Township for shutting off and turning on the service, shall be paid to the Township; (ii) institute an action in any court of competent jurisdiction of the collection of the amounts unpaid, including penalties, interest and reasonable attorney fees; or (iii) enforce the lien created in Section J. below. These remedies shall be cumulative and shall be in addition to any other remedy provided in this Ordinance for now or hereafter existing at law or in equity. Under no circumstances shall action taken by the Township to collect unpaid sewer rates and charges, time price differential, penalties, and interest, invalidate or waive the lien created by Section J. below.
- J. The sewer rates and charges shall be a lien on the respective premise served by the system. Whenever sewer rates and charges shall be unpaid for ninety (90) days or more, they shall be considered delinquent. The Treasurer shall certify all delinquent

sewer rates and fees and time price differential thereon, annually, on or before September 1, or each year, to the tax-assessing officer of the Township, who shall enter the delinquent sewer rates and fees, time price differential, interest and penalties upon the next tax roll as a charge against the premises affected and such charge shall be collected and the lien thereof enforced in the same manner as ad valorem property taxes levied against such premises.

- K. No free service shall be furnished by the system to any person, public or private, or to any public agency or instrumentality.
- L. A lien shall not be attached for sewer rates and charges to a premises which is subject to a legally executed lease that expressly provides that the tenant (and not the landlord) of the premises or a dwelling unit thereon shall be liable for payment of sewer rates and charges, effective for services which accrue after the date an affidavit is filed by the landlord with the Township. This affidavit shall include the names and addresses of the parties, the expiration date of the lease, and an agreement by the landlord to give the Township twenty (20) days written notice of any cancellation, change in or termination of the lease. The filing of the affidavit by the landlord shall be accompanied by a true copy of the lease and a security deposit in the amount of \$100.00 per unit. Upon the failure of the tenant to pay the sewer rates and charges when due, the security deposit shall be applied by the Township against the unpaid balance, including time price differential, interest, and penalties. The tenant shall immediately make sufficient payment to the Township to cover the amount of the security deposit as advanced. Upon the failure of the tenant to do so within ten (10) days of said advance, the penalties, rights, and remedies set forth in Section G., E., and I. of this Article shall be applicable with respect to the unpaid sewer rates and charges, including time price differential, interest, and penalties. The security deposit shall be held by the Township without interest and shall be returned to the landlord upon proof of termination of the lease.
- M. Applications for connection permits may be cancelled and/or sewer service disconnected by the Township for any violation of any part of this Ordinance, including, without limitation, any of the following reasons:
1. Misrepresentation in the permit application as to the nature or extent of the property to be served by the system;
 2. Nonpayment of sewer rates and charges;
 3. Improper or imperfect and/or failure to keep building sewers in suitable state of repair;
 4. Discharges in violation of this Ordinance;
 5. Damage to any part of the system; or
 6. Excessive flow due to groundwater infiltration.
- N. Where the sewer service supplies to a user has been discontinued for nonpayment of sewer rates and charges, service shall not be reestablished until all delinquent sewer

rates and charges and penalties, and the turn-on charge has been paid. The Township reserves the right as a condition to reconnect said sewer service to request that a nominal sum of \$100.00 per unit be placed on deposit with the Township for the purpose of establishing or maintaining any user's credit. Said deposit shall not be considered in lieu of any future billings for sewer rates and charges. Upon the failure of the user to pay the sewer rates and charges when due, the security deposit shall be applied by the Township against the unpaid balance, including time price differential, interest, and penalties. The user shall immediately make sufficient payment to the Township to cover the amount of the security deposit so advanced. Upon the failure of the user to do so within ten (10) days of said advance, the penalties, rights and remedies set forth in Section G., H., and I. of this Article shall be applicable with respect to any unpaid sewer rates and charges, including time price differential, interest and penalties. The security deposit shall be held by the Township without interest and shall be returned to the user upon continued timely payments by the user of all sewer rates and charges as and when due, for a minimum of four (4) successive quarterly billing periods.

Section 8. Authority to Inspect..

The superintendent and other duly authorized employees of the Township acting as his duly authorized agent, bearing proper credentials and identification, shall be permitted to enter upon such properties as may be necessary for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance.

Section 9. Suspension of Wastewater Treatment..

- A. The Township may suspend wastewater treatment service when such suspension is necessary, in the opinion of the Township, in order to stop an actual or threatened discharge which present or may present an imminent or substantial endangerment to the health or welfare of person or the environment, causes interference to the sewage works or causes the Township to violate any condition of its NPDES Permit.
- B. Any person notified of a suspension of the wastewater treatment service shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the Township shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the sewage works system or endangerment to any individuals. The Township shall reinstate the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Township within fifteen (15) days of the date of occurrence.

Section 10. Severability.

The provisions of this Ordinance are severable, and if any of the provisions, words, phrases, clauses or terms or the application thereof to any person, firm or corporation, or to any circumstances, shall be held invalid, illegal or unconstitutional by any court of competent jurisdiction, such decision or findings shall not in any way affect the validity, legality or

constitutionality of any other provision, work phrase, clause or term, and shall continue in full force and effect.

Section 11. Penalties.

- A. Violation of this Ordinance shall constitute a misdemeanor, conviction of which shall subject the violator to a maximum penalty of ninety (90) days in jail and/or \$500.00 fine, in the discretion of the Court, for each violation. Each day in which any violation continues shall be deemed a separate offense.
- B. Violation of this Ordinance is deemed to be a nuisance per se. The Township in the furtherance of the public health is hereby empowered to make all necessary repairs or take other corrective action necessitated by such nuisance or violation. The person who violated the Ordinance or permitted such nuisance or violation to occur shall be responsible to the Township for the costs and expenses incurred by the Township in making such repairs or taking such action.
- C. Any person who fails to complete a connection to the public sewer required by this Ordinance shall be subject to the Township bringing action for a mandatory injunction to compel such connections.
- D. In addition to any other remedies contained herein, any person violating any of the provisions of this Ordinance shall be liable to the Township for any expenses, loss, or damage suffered by the Township by reason of such violation.
- E. The remedies provided by this Ordinance shall be deemed to be cumulative and not mutually exclusive.

Section 12. Effective Date.

This Ordinance becomes effective thirty (30) days after the date of publication specified below.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this Ordinance was adopted by the Elba Township Board on the 11th day of November, 1991. A notice of adoption was published in the *Lapeer County Press* on the 8th day of January, 1992.


Joseph A. Stock, Supervisor


Diane T. Edgette, Clerk

TOWNSHIP OF ELBA

ORDINANCE NO. 43.1

MAY 27, 2009

AN ORDINANCE TO AMEND SECTION 7(D) OF ORDINANCE NO. 43, THE ELBA TOWNSHIP SANITARY SEWER ORDINANCE, LAKE NEPESSING DISTRICT TO PROVIDE EXTRA STRENGTH SURCHARGES WILL BE BILLED TO CUSTOMERS THAT DISCHARGE WASTEWATER THAT IS ABOVE NORMAL STRENGTH.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Amendment of Section 7(D) of Ordinance No. 43.

Section 7(D) of Ordinance No. 43, the Elba Township Sanitary Sewer Ordinance, Lake Nepessing District is hereby amended to read as follows:

D. Any user surcharge shall be determined by resolution of the Township Board and shall be sufficient to provide for the proportional distribution of the increased expense of operation and maintenance of the system to each user contributing toxic pollutants or sewage or waste that does not qualify as normal strength domestic sewage. Factors such as sewage or waste strength, volume, and delivery flow rate characteristics shall be considered and included as a basis for determining the user surcharge.

Extra strength surcharges will be billed to customers that discharge wastewater that is above normal strength. The sewer use ordinance normal strength concentration limits are 350 mg/L for BOD, 350 mg/L for SS and 20 mg/L for phosphorus. The extra strength surcharges shall be as follows:

- 1) BOD above 350 mg/L: \$0.93 per pound
- 2) SS above 350 mg/L: \$2.36 per pound
- 3) Phosphorus above 20 mg/L: \$14.31 per pound

Section 2. Effective Date.

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

At a regular meeting of the Board of Trustees for the Township of Elba held on the 27th day of May, 2009, CONNELL moved for adoption of the foregoing ordinance and STOCK supported the motion.

Voting for: 6

Voting against: 0

The Supervisor declared the ordinance adopted.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 43.1 which was enacted by the board of trustees of Elba Township at a regular meeting of said board of trustees held on the 27th day of May, 2009.


ELBA TOWNSHIP CLERK

**TOWNSHIP OF ELBA
County of Lapeer**

**BOAT DOCKING AND LAUNCHING ORDINANCE
(FOR LAKE LAPEER)
ORDINANCE NO. 44**

An ordinance to protect property values and public health, safety, and welfare of all persons making use of Lake Lapeer properties adjacent to Lake Lapeer within the Township and to adopt reasonable regulations for boat usage.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Definitions.

For the purpose of construction and application of this Ordinance, the following definitions shall apply:

BOAT shall mean a water craft having a motor or engine of more than five horsepower.

DOCK or DOCKING shall mean the mooring of a boat directly to a pier, which is a platform or other permanent or seasonal fixture extending from the shore, and directly accessible to a separate frontage; and shall also mean the regular anchoring of a boat adjacent to a separate frontage.

LAKE LAPEER shall mean the platted boundaries of Lake Lapeer situated, wholly or partially within the Township, but shall not mean nor include lakes to which other ordinance regulations apply so as to prohibit certain boats with engines or motors.

LAUNCH or LAUNCHING shall mean the placing of a boat in a lake.

PERSON shall mean a human being, partnership, corporation, association, including a condominium association, and any other entity to which the law provides or imposes rights or responsibilities.

SEPARATE FRONTAGE means that portion of a lot or parcel of land existing on documentation recorded within the Lapeer County Register of Deeds, which abuts or intersects with the normal high water mark of a lake, whether such lot or parcel is owned by one or more persons, or commonly owned by several persons, or combinations of persons. For the purpose of computing the length of frontage, the measurement shall be along the water's edge at the normal high water mark of the lake as determined by the Department of Natural Resources, or if the Department has not made such a finding, the normal high water mark location shall be determined at the discretion of the Township. Moreover, the measurement shall be made only along a natural shoreline.

Section 2. Regulations.

- A. No launching or docking shall be permitted on or from a separate frontage of less than eighty (80) feet unless the separate frontage constituted a lot of record prior to the effective date of this Ordinance.
- B. Not more than four (4) boats shall be launched or docked adjacent permanently to each separate frontage, except as permitted below.
- C. If the continuous length of a separate frontage is greater than eighty (80) feet, one (1) additional boat may be launched or docked for each eighty (80) feet of continuous frontage in excess of the first eighty (80) feet. (Maximum of ten (10) boats.)

Section 3. Penalties.

- A. Any person who shall be convicted of a violation of this Ordinance shall be guilty of a misdemeanor and shall be punished by imprisonment for not more than 90 days or by fine for not more than \$500.00, or both such imprisonment or fine.
- B. In addition to, or in lieu of, seeking to enforce this Ordinance by proceeding under Section 3.A. above, the Township may institute an action in Circuit Court seeking equitable relief.

Section 4. Severability.

In the event that any one or more sections, provisions, phrases, or words of this Ordinance shall be found to be invalid by a Court of competent jurisdiction, such holding shall not affect the validity nor the enforceability of the remaining sections, provisions, phrases, or words of this Ordinance unless expressly so determined by the Court.

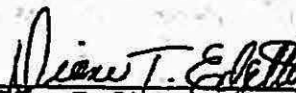
Section 5. Effective Date.

This Ordinance shall take effect thirty (30) days from the date of publication stated below, in accordance with Michigan statute.

The undersigned Supervisor and Clerk of the Township of Elba in the County of Lapeer, Michigan, do hereby certify the foregoing is a true and correct copy of the ordinance adopted by the Township Board at its regular meeting held on the 11th day of January, 1993 and published in the Lapeer County Press on the 28th day of February, 1993.



Gary E. Daw, Supervisor



Diane T. Edgett, Clerk

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TOWNSHIP OF ELBA
County of Lapeer

RENTAL ORDINANCE
ORDINANCE NO. 45

An ordinance establishing minimum standards governing the condition and maintenance of rental dwellings to make such dwellings safe, sanitary, and fit for human habitation; fixing certain responsibilities and duties of owners and occupants of such dwellings; authorizing the inspection of rental dwellings; and authorizing the condemnation of rental dwellings which are found to be unfit for human habitation;

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Applicability of Regulations.

This Ordinance shall apply to all persons, firms, partnerships, associations, and corporations owning, occupying, or having control or management of any building or premises used for rental dwelling purposes within the Township.

Section 2. Definitions.

A. For the purpose of this Ordinance, certain terms are defined as follows:

APPROVED: Accepted by the code official or his authorized representative as a result of their experience, investigations, or tests.

BASEMENT: A portion of a building located partly below grade and having less than half of its floor-to-ceiling height below the average grade of the adjoining ground.

BUILDING: Any structure, framework or housing for the occupancy of persons, storage, or other use.

CELLAR: A portion of a building located partly or wholly below grade, and having half or more than half of its floor-to-ceiling height below the average grade of the adjoining ground.

CODE OFFICIAL: The persons or agencies designated by the Township Board as the code official for the Township.

DWELLING: Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

DWELLING UNIT: Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

EXTERMINATION: The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible material that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the code official.

GARBAGE: The animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

HABITABLE ROOM: A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, or communicating corridors, closets and storage spaces.

HUMAN HABITATION: The use of any room, rooming unit, dwelling, dwelling unit, building or premises for living, sleeping, cooking, or eating purposes by one or more families or persons.

INFESTATION: The presence of any insects, rodents, or other pests within or around a dwelling, building, or premises.

MULTIPLE DWELLING: Any dwelling containing more than two dwelling units.

OCCUPANT: Any person living in, or having actual possession of, a dwelling unit.

MANAGER or OPERATOR: Any person who has charge, care or control of a building or part thereof, in which dwelling units are let.

PARKING SPACE: An area which is reserved for motor vehicle parking. Each space shall be a minimum of eight (8) feet wide and sixteen (16) feet long.

RUBBISH/TRASH: Waste materials (except garbage) including but not restricted to paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, plastic, crockery, dust and the residue from burning of combustible materials.

Section 3. Rental Dwelling Registration and Inspection.

A. Registration of Rental Dwellings.

1. Every owner of a rental dwelling unit must file with the code official the name and address of the owner and the name and address of the person in charge of such dwelling unit, for the purpose of receiving service of process, together with a description of the property containing the rental dwelling unit by street number or otherwise. Re-registration shall be required within ninety (90) days of the adoption of this Ordinance and also within ninety (90) days of any change of ownership.
2. No owner shall let or rent to any person a vacant dwelling unit unless it has been inspected and granted a current Certificate of Compliance.

EXTERMINATION: The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible material that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the code official.

GARBAGE: The animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

HABITABLE ROOM: A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, or communicating corridors, closets and storage spaces.

HUMAN HABITATION: The use of any room, rooming unit, dwelling, dwelling unit, building or premises for living, sleeping, cooking, or eating purposes by one or more families or persons.

INFESTATION: The presence of any insects, rodents, or other pests within or around a dwelling, building, or premises.

MULTIPLE DWELLING: Any dwelling containing more than two dwelling units.

OCCUPANT: Any person living in, or having actual possession of, a dwelling unit.

MANAGER or OPERATOR: Any person who has charge, care or control of a building or part thereof, in which dwelling units are let.

PARKING SPACE: An area which is reserved for motor vehicle parking. Each space shall be a minimum of eight (8) feet wide and sixteen (16) feet long.

RUBBISH/TRASH: Waste materials (except garbage) including but not restricted to paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, plastic, crockery, dust and the residue from burning of combustible materials.

Section 3. Rental Dwelling Registration and Inspection.

A. Registration of Rental Dwellings.

1. Every owner of a rental dwelling unit must file with the code official the name and address of the owner and the name and address of the person in charge of such dwelling unit, for the purpose of receiving service of process, together with a description of the property containing the rental dwelling unit by street number or otherwise. Re-registration shall be required within thirty (30) days of the adoption of this Ordinance and also within thirty (30) days of any change of ownership.
2. No owner shall let or rent to any person a vacant dwelling unit unless it has been inspected and granted a current Certificate of Compliance.



3. It shall be unlawful for any person to occupy any rental dwelling unit unless a Certificate of Compliance has been issued with respect to said dwelling unit. In the event the code official revokes the Certificate of Compliance with respect to any dwelling unit, it shall be the responsibility of the occupant thereof to vacate such dwelling unit within the time prescribed by the code official.
- B. Initial Inspection of Rental Dwellings. Each owner of a rental dwelling within the Township shall arrange for and pay for an inspection of each dwelling unit within one hundred and eighty (180) days of the adoption of this Ordinance.
- C. Additional Inspections of Rental Dwellings. Upon the request of the tenant or owner of a dwelling or dwelling unit and payment of the inspection fee by the person requesting the inspection, the code official shall perform an inspection within twenty-four (24) hours of the time agreed upon by himself and the applicant to inspect such dwelling or dwelling unit. If such an inspection establishes that the dwelling or dwelling unit complies with this Ordinance, the Inspector shall issue a Certificate of Compliance for said dwelling unit, indicating the maximum number of occupants who may lawfully occupy each unit.
- D. Reinspection. If said dwelling or dwelling unit does not comply with this Ordinance, the code official shall notify the applicant as provided in this Ordinance, and shall reinspect the dwelling or dwelling unit for compliance within a reasonable time considering the circumstances.
- E. Period of Inspection. The code official shall inspect on a periodic basis each rental dwelling unit within the Township. In no event shall the period between inspections be longer than one (1) year.
- F. Certificate of Compliance. One copy of the Certificate shall be handed to or be mailed to the applicant and a second copy for the information of the tenant shall be posted by the code official on the inside of the main entrance door of the dwelling or dwelling unit so certified and shall not be removed by or at the discretion of anyone other than the tenant or owner.
- G. Fees. Fees for registration, inspections, reinspections, and other services authorized under this Ordinance shall be established by motion of the Township Board.
- H. Records to be Maintained. Adequate inspection records indicating the condition of all rental dwelling units shall be kept on file by the code official for inspections by the Township.
- I. Access to Premises. The code official is hereby authorized and directed to make inspections to determine the condition of rental dwellings and rental dwelling units, within the Township in order that the safeguarding of the health and safety of the occupant of the dwelling and of the general public may be accomplished. For the purpose of making such inspections, the code official is hereby authorized to enter and inspect rental dwellings according to law, at all reasonable times. The owner or

occupant of rental dwellings, or the person in charge thereof, shall give code officials free access to such dwelling and its premises, at all reasonable times, for the purpose of such inspection. Every occupant of a rental dwelling shall give the owner thereof, or his agent, access to any part of such dwelling, at all reasonable times, for the purpose of making such repairs as are necessary to effect compliance with this Ordinance or with any lawful order issued pursuant to this Ordinance.

Section 4. Service of Notices and Orders.

A. Notices and Orders. Whenever the code official determines that there are reasonable grounds to believe that there has been a violation of any provision of this Ordinance or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation and orders for correction of violation to the persons responsible. Such notice shall:

1. Be in writing;
2. Include a statement of the conditions that constitute violations and what must be done to correct the same;
3. Specify a time limit for the performance of any act required;
4. Be served upon the owner or his agent or the occupant, as the case may require; PROVIDED, that such notice shall be deemed to be properly served upon such owner, agent, or occupant if a copy thereof is served upon him personally; or in the event that such personal service cannot be effected, then notice shall be given by a copy thereof sent by regular mail to such owner, agent, or occupant to his last known address; or in the event that neither personal nor service by mail can be effected, then notice shall be given by posting a copy thereof in a conspicuous place in or about the dwelling affected by the notice and publication of a copy of said notice.

B. Emergency Clause. Whenever the code official finds that an emergency exists which requires immediate action to protect the public health, he shall, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this Ordinance, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately.

Section 5. Standards for Basic Equipment and Facilities.

No person shall let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements:

- A. Kitchen Sink. Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to a water and sewage system.

B. Water Closet, Lavatory and Bath.

1. Every dwelling unit shall contain a room which affords privacy to a person within said room and which is equipped with a flush water closet, a lavatory basin, and a bathtub or shower in good working condition and properly connected to a water and sewage system.
2. Said room shall be so located as to afford privacy of access and shall not require passage through a bedroom.

C. Smoke Detectors. Every conversion rental unit shall be supplied with smoke detectors by the owner—one detector to be installed on each floor and/or one installed in each rental unit. The renter shall be responsible for upkeep and repair of battery-operated models and the owner shall be responsible for upkeep and repair of electrically-powered models.

D. Water Connections. Every kitchen sink, lavatory basin, and bathtub or shower required under the provisions of this section shall be connected with both hot and cold water lines. The hot water shall have a minimum temperature of one hundred-forty degrees Fahrenheit.

E. Rubbish and Garbage Storage Facilities. Every dwelling unit shall have adequate rubbish storage facilities whose type and location are approved by the code official.

F. Means of Egress. Every dwelling unit shall have two remote means of egress.

Section 6. Standards for Light, Ventilation, and Heating.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

A. Heating Facilities. Every dwelling shall have heating facilities which are properly installed, are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments in every dwelling unit located therein, to a temperature of at least 70 degrees Fahrenheit, at a distance of three feet above floor level.

B. Electrical Outlets. Every room shall contain at least two separate electrical convenience outlets or one such convenience outlet and one lighting fixture. Additional convenience outlets shall be provided in sufficient number to adequately service the electrical devices and/or appliances located therein, without the use of unapproved wiring methods. Cords to appliances and devices shall not be run through doorways, under rugs, or stapled to wood baseboards, door casing, or through holes in partitions or floors.

C. Lighting Public Halls and Stairways. Every public hall and stairway in every multiple dwelling containing three or more dwelling units shall be adequately lighted

at all times. Every public hall and occupancy containing not more than two dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

Section 7. General Requirements for Maintenance.

No person shall let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- A. **Foundation, Floor, Wall, Ceiling, and Roof.** Every exterior foundation, wall, and roof shall be weather tight and rodent-proof, shall be capable of affording privacy, and shall be kept in good repair. All foundations, floors, walls, ceilings, and roofs shall be kept in good repair.
- B. **Exterior Openings.**
 - 1. Every window, exterior door, and basement hatchway shall be kept weather tight, watertight and rodent-proof, and shall be kept in sound working condition and good repair.
 - 2. All openings shall be insect proofed by screening.
- C. **Stairs, Porches.** Every inside and outside stair, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair.
- D. **Plumbing Fixtures.** Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks, and obstructions.
- E. **Floor Surfaces.** Every water closet compartment, bathroom, and kitchen floor surface shall be constructed and maintained so as to be water resistant and so as to permit such floor to be easily kept in a clean and sanitary condition.
- F. **Supplied Facilities.** Every supplied facility, piece of equipment, or utility which is required under this Ordinance shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.
- G. **Facilities not to be Shut Off.** No owner, operator, or occupant shall cause any service, facility, equipment, or utility which is required under this Ordinance to be removed from or shut off from or discontinued for any occupied dwelling let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the code official.

Section 8. Minimum Space, Use and Location Requirements.

No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- A. **Living Space.** Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof; the floor space to be calculated on the basis of total habitable room area. In no case shall any private dwelling be occupied which does not contain at least 480 square feet of habitable room area.
- B. **Sleeping Space.**
 - 1. In every dwelling unit of two (2) or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor space, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor space for each occupant thereof.
 - 2. Every room occupied for sleeping purposes shall be so located as to afford privacy of access and shall not require passage through another bedroom or bathroom.
- C. **Ceiling Height.** At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet; and the floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
- D. **Cellar.** No cellar space shall be used as a habitable room or dwelling unit. This provision does not prohibit the use of cellar rooms for recreation purposes.
- E. **Basement.** No basement space shall be used as a habitable room or dwelling unit less it meets BOCA Code.
- F. **Kitchen Use.** No kitchen or cooking accommodations shall be permitted or maintained in any room or space of any building for the common or joint use of the individual occupants of a two-family or multiple-family dwelling.
- G. **Temporary Dwellings.** It shall be unlawful to erect or occupy any structure which is intended to be occupied in whole or in part as a temporary dwelling unless it complies with all the provisions of this chapter.
- H. **Parking Spaces.** Every dwelling unit shall have a minimum of two (2) parking spaces available for use by occupants and guests. The parking spaces must be located on private property and must be within two hundred (200) feet of the dwelling unit.

Section 9. Responsibilities of Owners and Occupants.

- A. **Public Areas.** Every owner of a dwelling containing more than two dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof. In all other cases it shall be the responsibility of the occupants.
- B. **Dwelling Unit.** Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he occupies and controls.
- C. **Rubbish.** Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in the rubbish facilities required by Section 7(E). It shall be the responsibility of the owner to remove the rubbish, properly placed in containers, for all dwelling units in a dwelling containing more than two dwelling units. In all other cases it shall be the responsibility of the occupants to remove the rubbish.
- D. **Garbage.** Every occupant of a dwelling or dwelling unit shall dispose of all his garbage in a clean and sanitary manner, by placing it in the garbage disposal facilities or garbage storage containers required by Section 7(F). It shall be the responsibility of the owner to supply such facilities or containers for all dwelling units in a dwelling containing more than two dwelling units. In all other cases it shall be the responsibility of the occupant to furnish such facilities or containers.
- E. **Extermination of Pests.** The presence of insects, rodents, or other pests within a dwelling or on the premises is declared to be a violation of this chapter. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions, whenever infestation is caused by failure of the owner to maintain a dwelling in a rat proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.
- F. **Plumbing Fixtures.** Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

Section 10. Dwellings Unfit for Human Habitation.

The designation of dwellings or dwelling units as unfit for human habitation, the declaration of the same to be a public nuisance and provisions for their vacation, removal, repair, condemnation, and demolition shall be carried out in compliance with the following requirements:

A. Unfit for Human Habitation Defined. Dwellings or dwelling units which have any of the following defects shall be deemed "unfit for human habitation."

1. Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, or general health and welfare of the occupants or the public.
2. Those which have become or are so dilapidated, decayed, unsafe, unsanitary, or which fail to provide amenities essential to decent living or are likely to cause disease.
3. Those having light, air or sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who may live therein.
4. Those having inadequate means of egress.
5. Those which have parts thereof which are so attached that they may fall and injure persons or property.
6. Those in which the owner or occupant fails to comply with orders of the code official, based on the provisions of this Ordinance.

B. Order to Vacate, Repair or Demolish. Any dwelling or dwelling unit may be condemned as unfit for human habitation if, in the opinion of the code official, the dwelling or dwelling unit fails to meet the requirements and standards of this Ordinance. Whenever the code official determines a dwelling or dwelling unit as unfit for human habitation, he shall give notice to the owner that the dwelling or dwelling unit shall be condemned and of his intent to placard the same as unfit for human habitation. Such notice shall:

1. Be in writing;
2. Identify the location of the dwelling or dwelling unit;
3. Include a description of the repairs and improvements required to bring the condemned dwelling or dwelling unit into compliance with the provisions of this Ordinance;
4. Set a reasonable time limit for making the repairs and improvements;
5. Be served upon the owner in accordance with this Ordinance.

C. Placarding of Condemned Dwellings. If the owner fails to make the repairs and improvements required within the specified time limit, the code official shall post, in a conspicuous place, a placard or placards bearing the following words: "Condemned As Unfit For Human Habitation."

- D. **Vacating of Condemned Dwellings.** Any dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation by the code official shall be vacated within a reasonable time, as required by the code official. No owner or operator shall let to any person for human habitation and no person shall occupy any dwelling or dwelling unit which has been condemned and placarded by the code official after the date on which the code official has required the dwelling or dwelling unit to be vacated.
- E. **Removal of Vacating Order and Placard.** No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the code official. The code official shall remove such placard whenever the defect or defects, upon which the condemnation and placarding action were based, have been eliminated.
- F. **Unlawful Removal of Placard.** No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation.

Section 11. Penalty for Violation.

Any person, persons, firm or corporation, or anyone acting on behalf of said person, persons, firm or corporation, who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, be subject to a fine of not more than Five Hundred (\$500.00) Dollars and Court costs, or by imprisonment in the County Jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment. Each day such violation continues shall be deemed a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this Ordinance was duly adopted by the Elba Township Board at a meeting held on the 10th day of May, 1993 and that a synopsis of the Ordinance was published in the Lapeer County Press on the 2nd day of June, 1993. This Ordinance was made effective thirty (30) days after its date of publication.

TOWNSHIP OF ELBA
RENTAL ORDINANCE AMENDMENT
ORDINANCE NUMBER 45.1

An Ordinance to amend the Elba Township Rental Ordinance, being Ordinance Number 45, to provide a definition of rental dwellings for purposes of ordinance applicability.

THE TOWNSHIP OF ELBA ORDAINS:

The following definition is hereby added to Section 2 of the Elba Township Rental Ordinance:

Rental Dwelling or Rental Dwelling Unit: Any dwelling or dwelling unit which is occupied by persons other than the owners or their immediate families. For purposes of this definition, immediate family is limited to the parents or children of the owners.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this Ordinance Amendment was adopted by the Elba Township Board at a meeting duly held on the 25th day of July, 1994 and was published in the Lapeer County Press on the 7th day of September, 1994. This Ordinance amendment was given immediate effect as of said date of adoption.



Gary Dow, Supervisor



Diane T. Edgette, Clerk

ORIGINAL

**TOWNSHIP OF ELBA
County of Lapeer**

**RENTAL ORDINANCE
ORDINANCE NO. 45.2**

An ordinance establishing minimum standards governing the condition and maintenance of rental dwellings to make such dwellings safe, sanitary, and fit for human habitation; fixing certain responsibilities and duties of owners and occupants of such dwellings; authorizing the inspection of rental dwellings; and authorizing the condemnation of rental dwellings which are found to be unfit for human habitation;

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Applicability of Regulations.

This Ordinance shall apply to all persons, firms, partnerships, associations, and corporations owning, occupying, or having control or management of any building or premises used for rental dwelling purposes within the Township.

Section 2. Definitions.

A. For the purpose of this Ordinance, certain terms are defined as follows:

APPROVED: Accepted by the code official or his authorized representative as a result of their experience, investigations, or tests.

BASEMENT: A portion of a building located partly below grade and having a floor-to-ceiling height of at least seven (7) feet.

BUILDING: Any structure, framework or housing for the occupancy of persons, storage, or other use.

CELLAR: A portion of a building located partly or wholly below grade and having a floor-to-ceiling height below seven (7) feet.

CODE OFFICIAL: The persons or agencies designated by the Township Board as the code official for the Township.

DWELLING: Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

DWELLING UNIT: Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

EXTERMINATION: The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible material that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the code official.

GARBAGE: The animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

HABITABLE ROOM: A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, or communicating corridors, closets and storage spaces.

HUMAN HABITATION: The use of any room, rooming unit, dwelling, dwelling unit, building or premises for living, sleeping, cooking, or eating purposes by one or more families or persons.

INFESTATION: The presence of any insects, rodents, or other pests within or around a dwelling, building, or premises.

MULTIPLE DWELLING: Any dwelling containing more than two dwelling units.

OCCUPANT: Any person living in, or having actual possession of, a dwelling unit.

MANAGER or OPERATOR: Any person who has charge, care or control of a building or part thereof, in which dwelling units are let.

PARKING SPACE: An area which is reserved for motor vehicle parking. Each space shall be a minimum of eight (8) feet wide and sixteen (16) feet long.

RUBBISH/TRASH: Waste materials (except garbage) including but not restricted to paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, plastic, crockery, dust and the residue from burning of combustible materials.

Section 3. Rental Dwelling Registration and Inspection.

A. Registration of Rental Dwellings.

1. Every owner of a rental dwelling unit must file with the code official the name and address of the owner and the name and address of the person in charge of such dwelling unit, for the purpose of receiving service of process, together with a description of the property containing the rental dwelling unit by street number or otherwise. Re-registration shall be required within thirty (30) days of the adoption of this Ordinance and also within thirty (30) days of any change of ownership.
2. No owner shall let or rent to any person a vacant dwelling unit unless it has been inspected and granted a current Certificate of Compliance.

3. It shall be unlawful for any person to occupy any rental dwelling unit unless a Certificate of Compliance has been issued with respect to said dwelling unit. In the event the code official revokes the Certificate of Compliance with respect to any dwelling unit, it shall be the responsibility of the occupant thereof to vacate such dwelling unit within the time prescribed by the code official.
- B. **Initial Inspection of Rental Dwellings.** Each owner of a rental dwelling within the Township shall arrange for and pay for an inspection of each dwelling unit within thirty (30) days of the adoption of this Ordinance.
- C. **Additional Inspections of Rental Dwellings.** Upon the request of the tenant or owner of a dwelling or dwelling unit and payment of the inspection fee by the person requesting the inspection, the code official shall perform an inspection within twenty-four (24) hours of the time agreed upon by himself and the applicant to inspect such dwelling or dwelling unit. If such an inspection establishes that the dwelling or dwelling unit complies with this Ordinance, the Inspector shall issue a Certificate of Compliance for said dwelling unit, indicating the maximum number of occupants who may lawfully occupy each unit.
- D. **Re-inspection.** If said dwelling or dwelling unit does not comply with this Ordinance, the code official shall notify the applicant as provided in this Ordinance, and shall re-inspect the dwelling or dwelling unit for compliance within a reasonable time considering the circumstances.
- E. **Period of Inspection.** The code official shall inspect on a periodic basis each rental dwelling unit within the Township. In no event shall the period between inspections be longer than two (2) years.
- F. **Certificate of Compliance.** One copy of the Certificate shall be handed to or be mailed to the applicant and a second copy for the information of the tenant shall be posted by the code official on the inside of the main entrance door of the dwelling or dwelling unit so certified and shall not be removed by or at the discretion of anyone other than the tenant or owner.
- G. **Fees.** Fees for registration, inspections, re-inspections, and other services authorized under this Ordinance shall be established by motion of the Township Board.
- H. **Records to be Maintained.** Adequate inspection records indicating the condition of all rental dwelling units shall be kept on file by the code official for inspections by the Township.
- I. **Access to Premises.** The code official is hereby authorized and directed to make inspections to determine the condition of rental dwellings and rental dwelling units, within the Township in order that the safeguarding of the health and safety of the occupant of the dwelling and of the general public may be accomplished. For the purpose of making such inspections, the code official is hereby authorized to enter and inspect rental dwellings according to law, at all reasonable times. The owner or

occupant of rental dwellings, or the person in charge thereof, shall give code officials free access to such dwelling and its premises, at all reasonable times, for the purpose of such inspection. Every occupant of a rental dwelling shall give the owner thereof, or his agent, access to any part of such dwelling, at all reasonable times, for the purpose of making such repairs as are necessary to effect compliance with this Ordinance or with any lawful order issued pursuant to this Ordinance.

Section 4. Service of Notices and Orders.

A. Notices and Orders. Whenever the code official determines that there are reasonable grounds to believe that there has been a violation of any provision of this Ordinance or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation and orders for correction of violation to the persons responsible. Such notice shall:

1. Be in writing;
2. Include a statement of the conditions that constitute violations and what must be done to correct the same;
3. Specify a time limit for the performance of any act required;
4. Be served upon the owner or his agent or the occupant, as the case may require; PROVIDED, that such notice shall be deemed to be properly served upon such owner, agent, or occupant if a copy thereof is served upon him personally; or in the event that such personal service cannot be effected, then notice shall be given by a copy thereof sent by regular mail to such owner, agent, or occupant to his last known address; or in the event that neither personal nor service by mail can be effected, then notice shall be given by posting a copy thereof in a conspicuous place in or about the dwelling affected by the notice and publication of a copy of said notice.

B. Emergency Clause. Whenever the code official finds that an emergency exists which requires immediate action to protect the public health, he shall, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this Ordinance, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately.

Section 5. Standards for Basic Equipment and Facilities.

No person shall let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements:

A. Kitchen Sink Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to a water and sewage system.

B. Water Closet, Lavatory and Bath.

1. Every dwelling unit shall contain a room which affords privacy to a person within said room and which is equipped with a flush water closet, a lavatory basin, and a bathtub or shower in good working condition and properly connected to a water and sewage system.
2. Said room shall be so located as to afford privacy of access and shall not require passage through a bedroom.

C. Smoke Detectors. Every conversion rental unit shall be supplied with smoke detectors by the owner—one detector to be installed on each floor and/or one installed in each rental unit. The renter shall be responsible for upkeep and repair of battery-operated models and the owner shall be responsible for upkeep and repair of electrically-powered models.

D. Water Connections. Every kitchen sink, lavatory basin, and bathtub or shower required under the provisions of this section shall be connected with both hot and cold water lines. The hot water shall have a minimum temperature of one hundred-forty degrees Fahrenheit.

E. Rubbish and Garbage Storage Facilities. Every dwelling unit shall have adequate rubbish storage facilities whose type and location are approved by the code official.

F. Means of Egress. Every dwelling unit shall have two remote means of egress.

Section 6. Standards for Light, Ventilation, and Heating.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- A. Heating Facilities.** Every dwelling shall have heating facilities which are properly installed, are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments in every dwelling unit located therein, to a temperature of at least 70 degrees Fahrenheit, at a distance of three feet above floor level.
- B. Electrical Outlets.** Every room shall contain at least two separate electrical convenience outlets or one such convenience outlet and one lighting fixture. Additional convenience outlets shall be provided in sufficient number to adequately service the electrical devices and/or appliances located therein, without the use of unapproved wiring methods. Cords to appliances and devices shall not be run through doorways, under rugs, or stapled to wood baseboards, door casing, or through holes in partitions or floors.
- C. Lighting Public Halls and Stairways.** Every public hall and stairway in every multiple dwelling containing three or more dwelling units shall be adequately lighted

at all times. Every public hall and occupancy containing not more than two dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

Section 7. General Requirements for Maintenance.

No person shall let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- A. **Foundation, Floor, Wall, Ceiling, and Roof** Every exterior foundation, wall, and roof shall be weather tight and rodent-proof, shall be capable of affording privacy, and shall be kept in good repair. All foundations, floors, walls, ceilings, and roofs shall be kept in good repair.
- B. **Exterior Openings.**
 - 1. Every window, exterior door, and basement hatchway shall be kept weather tight, watertight and rodent-proof, and shall be kept in sound working condition and good repair.
 - 2. All openings shall be insect proofed by screening.
- C. **Stairs, Porches.** Every inside and outside stair, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair.
- D. **Plumbing Fixtures.** Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks, and obstructions.
- E. **Floor Surfaces.** Every water closet compartment, bathroom, and kitchen floor surface shall be constructed and maintained so as to be water resistant and so as to permit such floor to be easily kept in a clean and sanitary condition.
- F. **Supplied Facilities.** Every supplied facility, piece of equipment, or utility which is required under this Ordinance shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.
- G. **Facilities not to be Shut Off.** No owner, operator, or occupant shall cause any service, facility, equipment, or utility which is required under this Ordinance to be removed from or shut off from or discontinued for any occupied dwelling let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the code official.

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No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- A. **Living Space.** Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof; the floor space to be calculated on the basis of total habitable room area. In no case shall any private dwelling be occupied which does not contain at least 480 square feet of habitable room area.
- B. **Sleeping Space.**
 - 1. In every dwelling unit of two (2) or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor space, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor space for each occupant thereof.
 - 2. Every room occupied for sleeping purposes shall be so located as to afford privacy of access and shall not require passage through another bedroom or bathroom.
- C. **Ceiling Height.** At least 75 percent (75%) of the floor area of every habitable room shall have a ceiling height of at least seven feet; and the floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
- D. **Cellar.** No cellar space shall be used as a habitable room or dwelling unit. This provision does not prohibit the use of cellar rooms for recreation purposes.
- E. **Basement.** No basement space shall be used as a habitable room or dwelling unit less it meets BOCA Code.
- F. **Kitchen Use.** No kitchen or cooking accommodations shall be permitted or maintained in any room or space of any building for the common or joint use of the individual occupants of a two-family or multiple-family dwelling.
- G. **Temporary Dwellings.** It shall be unlawful to erect or occupy any structure which is intended to be occupied in whole or in part as a temporary dwelling unless it complies with all the provisions of this chapter.
- H. **Parking Spaces.** Every dwelling unit shall have a minimum of two (2) parking spaces available for use by occupants and guests. The parking spaces must be located on private property and must be within two hundred (200) feet of the dwelling unit.

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- A. Public Areas. Every owner of a dwelling containing more than two dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof. In all other cases it shall be the responsibility of the occupants.
- B. Dwelling Unit. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he occupies and controls.
- C. Rubbish. Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in the rubbish facilities required by Section 5(E). It shall be the responsibility of the owner to remove the rubbish, properly placed in containers, for all dwelling units in a dwelling containing more than two dwelling units. In all other cases it shall be the responsibility of the occupants to remove the rubbish.
- D. Garbage. Every occupant of a dwelling or dwelling unit shall dispose of all his garbage in a clean and sanitary manner, by placing it in the garbage disposal facilities or garbage storage containers required by Section 5(E). It shall be the responsibility of the owner to supply such facilities or containers for all dwelling units in a dwelling containing more than two dwelling units. In all other cases it shall be the responsibility of the occupant to furnish such facilities or containers.
- E. Extermination of Pests. The presence of insects, rodents, or other pests within a dwelling or on the premises is declared to be a violation of this chapter. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions, whenever infestation is caused by failure of the owner to maintain a dwelling in a rat proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.
- F. Plumbing Fixtures. Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof

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A. Unfit for Human Habitation Defined. Dwellings or dwelling units which have any of the following defects shall be deemed "unfit for human habitation."

1. Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, or general health and welfare of the occupants or the public.
2. Those which have become or are so dilapidated, decayed, unsafe, unsanitary, or which fail to provide amenities essential to decent living or are likely to cause disease.
3. Those having light, air or sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who may live therein.
4. Those having inadequate means of egress.
5. Those which have parts thereof which are so attached that they may fall and injure persons or property.
6. Those in which the owner or occupant fails to comply with orders of the code official, based on the provisions of this Ordinance.

B. Order to Vacate, Repair or Demolish. Any dwelling or dwelling unit may be condemned as unfit for human habitation if, in the opinion of the code official, the dwelling or dwelling unit fails to meet the requirements and standards of this Ordinance. Whenever the code official determines a dwelling or dwelling unit as unfit for human habitation, he shall give notice to the owner that the dwelling or dwelling unit shall be condemned and of his intent to placard the same as unfit for human habitation. Such notice shall:

1. Be in writing;
2. Identify the location of the dwelling or dwelling unit;
3. Include a description of the repairs and improvements required to bring the condemned dwelling or dwelling unit into compliance with the provisions of this Ordinance;
4. Set a reasonable time limit for making the repairs and improvements;
5. Be served upon the owner in accordance with this Ordinance.

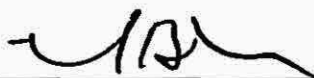
C. Placarding of Condemned Dwellings. If the owner fails to make the repairs and improvements required within the specified time limit, the code official shall post, in a conspicuous place, a placard or placards bearing the following words: "Condemned As Unfit For Human Habitation."

- D. Vacating of Condemned Dwellings.** Any dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation by the code official shall be vacated within a reasonable time, as required by the code official. No owner or operator shall let to any person for human habitation and no person shall occupy any dwelling or dwelling unit which has been condemned and placarded by the code official after the date on which the code official has required the dwelling or dwelling unit to be vacated.
- E. Removal of Vacating Order and Placard.** No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the code official. The code official shall remove such placard whenever the defect or defects, upon which the condemnation and placarding action were based, have been eliminated.
- F. Unlawful Removal of Placard.** No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation.

Section 11. Penalty for Violation.

Any person, persons, firm or corporation, or anyone acting on behalf of said person, persons, firm or corporation, who shall violate any of the provisions of the Ordinance shall, upon conviction thereof, be subject to a fine of not more than Five Hundred (\$500.00) Dollars and Court costs, or by imprisonment in the County Jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment. Each day such violation continues shall be deemed a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of the Ordinance.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this Ordinance was duly adopted by the Elba Township Board at a Meeting held on the 25th day of November, 2013 and that a synopsis of the Ordinance was published in the Lapeer County Press on the 11th day of December, 2013. This Ordinance was made effective thirty (30) days after its date of publication.



Michael Boskee, Supervisor



Rena Fountain, Clerk

TOWNSHIP OF ELBA

ADDRESS NUMBERING ORDINANCE

ORDINANCE NO. 46

An Ordinance to require the acquisition and posting of address numbers to assist ambulance, police, fire department and other public safety and service agencies to locate those in need of assistance or service.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. ADDRESS NUMBER REQUIRED. Each dwelling and each principal building within the Township shall obtain and display an assigned address number. An address number shall only be issued for a public or a private road.

Section 2. DEFINITIONS. For purposes of this Ordinance, the following terms are hereby defined:

A. "Principal building" shall mean the main building located on a parcel or lot. Garages, pole barns, and other buildings which are normally accessory to other structures shall not be deemed to be "principal buildings" unless they are provided with a separate electrical meter.

B. "Assigned address number" shall mean an address number which has been designated for a site by Detroit Edison prior to the effective date of this Ordinance or by the Township agent after the effective date of this Ordinance.

C. "Private road" shall mean a non-public road which has been approved by the Township in compliance with the Private Road Ordinance. Easements and private drives shall not be deemed to be "private roads".

Section 3. APPLICATION. All applicants for building permits for construction of a dwelling or other principal building shall also apply for an address number for the structure. The number shall be issued by the designated agent of the Township as soon as all required information is provided by the applicant.

Section 4. POSTING. Each dwelling or other principal building on a parcel of land within the Township shall post the assigned address number. The number must be visible from the road. Whenever a dwelling or principal building is located more than 100 feet from the center of a public or private road, or is otherwise difficult to see from the road, the owner shall post the address number at the point at which the driveway enters the public or private road.

Section 5. NUMERALS. Each posted address number shall consist of numerals at least three (3) inches in height and of a contrasting color to the attached surface.

Section 6. NEW CONSTRUCTION. Whenever a new dwelling or other principal building is constructed, the address number shall be posted in compliance with this Ordinance at the time construction is commenced. However, if the address number has not been issued prior to commencement of construction, the address number shall be posted within 24 hours after being issued.

Section 7. MULTIPLE ADDRESS NUMBERS. Developments which need individual address numbers for locations within the site shall comply as follows:

- A. Mobile Home Parks. The mobile home park shall be assigned a single address number for the public road on which the park is located. Individual home sites within the park shall be designated by that address number plus the lot number of the site. Lots shall be consecutively numbered. Each internal street shall have a continuously maintained sign indicating the range of lot numbers on that street.
- B. Multiple Family Dwellings. Each individual building shall receive an address number. Each unit within that building shall receive a number which includes the building address number plus a number indicating the floor and the unit.
- C. Multiple Unit Buildings. All other principal buildings containing more than one unit shall receive an address number. The individual unit number shall be determined by the enforcement agency based upon the layout and location of the structure.

Section 8. PRIVATE ROADS. In the event that the dwelling or principal building is located on a private road, there shall also be erected a road sign identifying the name of the private road, in conformity with county road signage requirements, where the private road enters the public road. The name of the private road shall be reviewed and approved by the designated agency for registry of private road names within the County. In the event that a private drive or easement is upgraded to a private road, any existing numbers shall be replaced with address numbers based on the private road location.

Section 9. ELECTRICAL SERVICE. No address number or permit for a dwelling or principal building shall be issued unless an application has been filed with Detroit Edison to acquire access to electrical service. In lieu of a Detroit Edison service application, an applicant may sign a waiver to the effect that electrical service has not been verified.

Section 10. ENFORCEMENT AGENT. The Township Board shall designate a specific entity or official to serve as the agent to administer and enforce this Ordinance. The agent shall establish a fee to defray the administrative cost of issuing address numbers.

Section 11. PENALTY. Any property owner who fails to acquire, post or maintain the posting of an address number shall be guilty of a misdemeanor. Upon conviction thereof, the violator shall be liable for a fine not to exceed \$100.00 plus cost of enforcement and prosecution.

Section 12. REPEAL. The former Elba Township Road Number Ordinance, being Ordinance No. 42 adopted on June 10, 1991, is hereby repealed in its entirety.

The undersigned Clerk of the Township of Elba hereby certifies that this Ordinance was adopted by the Township Board on the 10TH day of JANUARY, 1994 and was published in the COUNTY PRESS on the 26TH day of JANUARY, 1994. This Ordinance will become effective thirty (30) days after said date of publication.



Diane T. Edgette, Clerk

TOWNSHIP OF ELBA
County of Lapeer

CIVIL INFRACTION ORDINANCE
ORDINANCE NO. 48

An ordinance establishing Municipal Civil Infraction Violations, enforcement procedures, and providing general penalties and sanctions for violations of Township ordinances.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Definitions.

For the purpose of this Ordinance, certain terms are herein defined.

ACT: Act. No. 236 of the Public Acts of 1961, as amended.

AUTHORIZED OFFICIAL. Any public officer, agent or personnel authorized by ordinance to issue municipal civil infractions and any police officer having jurisdiction within the Township.

MUNICIPAL CIVIL INFRACTION. An act or omission that is prohibited by any ordinance, but which is not a crime, and for which civil sanctions, including without limitation, fines, damages, expenses, and costs, may be ordered, as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended. A municipal civil infraction is not a lesser included offense of a violation of this Ordinance that is a criminal offense.

MUNICIPAL CIVIL INFRACTION ACTION. A civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

MUNICIPAL CIVIL INFRACTION CITATION. A written complaint or notice prepared by an authorized official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Section 2. General Penalties and Sanctions for Violations of Ordinances; Continuing Violations; Injunctive Relief.

- A. Unless a violation of an ordinance is specifically designated in the ordinance as a Municipal Civil Infraction, the violation shall be deemed to be a misdemeanor.
- B. The sanction for a violation which is a Municipal Civil Infraction shall be a civil fine in the amount as provided by this Code or any Ordinance, plus any cost, damages, expenses, and other sanctions, as authorized under Chapter 87 Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.
 1. Unless otherwise specifically provided for, the civil fine for a particular Municipal Civil Infraction violation shall be not less than Fifty (\$50.00) Dollars, plus costs and other sanctions, for each infraction.

2. Increased civil fines may be imposed for repeated violations by a person of any ordinance provision. As used in this Section, "repeat offense" means a second (or any subsequent) Municipal Civil Infraction violation of the same requirement or provision (i) committed by a person within any six-month period, unless some other period is specifically provided by Ordinance and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by 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 no less than One Hundred (\$100.00) Dollars, plus costs.
 - (b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than One Hundred Fifty (\$150.00) Dollars, plus costs.
 - (c) A "violation" includes any act which is prohibited by any Ordinance or any omission or failure to act where the act is required by any Ordinance.
 - (d) Each day on which any violation of any Ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
 - (e) 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 the Ordinance.

Section 3. Action; Commencement.

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

Section 4. Citations; Issuance and Service.

Municipal civil infraction citations shall be issued and served by authorized 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.
- 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 authorized official 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 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 of 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 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 official may issue a citation to a person if:
 - 1. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - 2. 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 municipal attorney approves in writing the issuance of the citation.
- G. Municipal civil infraction citations shall be served by an authorized official as follows:
 - 1. Except as provided by Section 4(G)(2), an authorized official shall personally serve a copy of the citation upon the alleged violator.
 - 2. If the municipal civil infraction 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 the copy of the citation 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.

Section 5. Contents.

- 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:
 - 1. Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
 - 2. Admit responsibility for the municipal civil infraction “with explanation” by mail by the time specified for appearance, or in person, or by representation.
 - 3. 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 authorized official or municipal attorney.**

(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:**

1. **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.**
2. **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.**
3. **That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the authorized official.**
4. **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.**
5. **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.**

Section 6. Severability.

The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

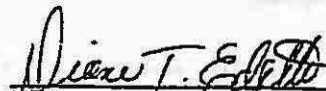
Section 7. Effective Date.

This Ordinance shall become effective on the date of publication specified below.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this ordinance was duly adopted by the Elba Township Board at a meeting held on the 24th day of June, 1996 and was published in the Lapeer County Press on the 24th day of July, 1996.



Gary E. Daw, Supervisor



Diane T. Edgett, Clerk

**TOWNSHIP OF ELBA
County of Lapeer**

**SANITARY SEWER CONNECTION ORDINANCE
POTTERS LAKE AND ELBA SEWER DRAIN PHASE I
ORDINANCE NO. 49**

An Ordinance regulating the connection of building sewers to the Potters Lake Elba Sewer Drain and to provide penalties for ordinance violations.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Scope.

To regulate connection to the Potters Lake and Elba Sewer Drain in the Phase I Special Assessment District.

Section 2. Definitions.

The meaning of terms used in this ordinance shall be as follows:

BUILDING SEWER. The extension from a building drain to the public sewer or other place of disposal.

DISTRICT. The area located in the Township and served by the system as outlined in the attached Appendix I.

LCDC. Lapeer County Drain Commissioner.

PREMISES. A dwelling or principal building located on a parcel of land.

PUBLIC SEWER. The System, which is controlled by the LCDC.

SEWER AVAILABILITY. Public Sewer Main located within 200 feet of the premises.

SEWER CONNECTION AND SEWER USE REGULATIONS. Regulations for connecting to and use of Potters Lake and Elba Sewer Drain, provided by the Lapeer County Drain Commissioner.

Section 3. Use of Public Sewers Required.

- A. The owner of any structure used for human occupancy, employment, or other purpose for which Potters Lake and Elba Sewer Drain Phase I is available, is hereby required, at his expense, to connect such structure directly to the proper public sewer within 180 days of the adoption of this Ordinance.**
- B. No person shall place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the District, any sewage or other prohibited waste.**

- C. It shall be unlawful to discharge to any natural outlet within the District any sewage or other polluted waters.

Section 4. Authority to Inspect.

Elba Township through its duly authorized employees or agents, bearing proper credentials and identification, shall be permitted to enter upon such properties as may be necessary for the purpose of inspection, observation, measurement, sampling and testing to verify compliance with the provisions of this Ordinance.

Section 5. Penalties.

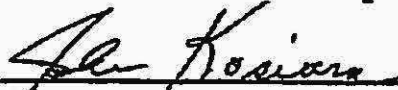
Any person, firm or corporation who violates any of the provisions of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00, plus costs and other sanctions, for each infraction. Repeat offenses under this Ordinance shall be subject to increased fines as provided for in the Elba Township Civil Infraction Ordinance, being Ordinance No. 48.

- A. Any person who fails to complete a connection to the public sewer required by this Ordinance shall be subject to the Township bringing action for a mandatory injunction to compel such connections.
- B. In addition to any other remedies contained herein, any person violating any of the provisions of this Ordinance shall be liable to the Township for any expenses, loss, or damage suffered by the Township by reason of such violation.
- C. The remedies provided by this Ordinance shall be deemed to be cumulative and not mutually exclusive.

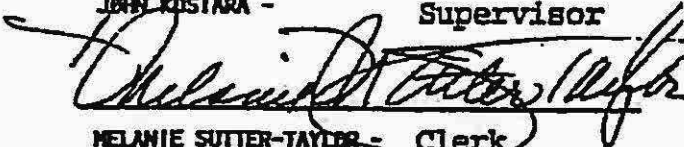
Section 6. Effective Date.

This Ordinance becomes effective thirty (30) days after the date of publication specified below.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this Ordinance was adopted by the Elba Township Board on the 22nd day of February, 1999. A notice of adoption was published in the Lapeer County Press on the 28th day of February, 1999.



JOHN KOSIARA - Supervisor



MELANIE SUTTER-TAYLOR - Clerk

APPENDIX I
ASSESSMENT DISTRICT
ELBA TOWNSHIP (T7N-R9E)

Section 6. All lands within the plat of Potters Lake Park Subdivision

Section 7. All lands within an area described as north of Davison Road, west of Harsen Road, east of Oglethorpe Drive and south of the north line of Section 7, including lands within the C.H. Mann Plat. Also includes, a strip of land 200 feet wide on the west side of Oglethorpe Drive between Davison Road and the north section line.

TOWNSHIP OF ELBA

County of Lapeer

**BUILDING, MECHANICAL, ELECTRICAL, AND
PLUMBING CODE ENFORCEMENT ORDINANCE
ORDINANCE NO. 50**

An Ordinance to designate the Township of Elba as the enforcement agency in the Township for the Michigan Building, Residential and Energy Codes, the Michigan Plumbing Code, the Michigan Mechanical Code, and the Michigan Electrical Code, in accordance with the provisions of Public Act 230 of 1972, as amended.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Building Code Enforcement.

The Township of Elba is hereby designated the enforcing agency in the Township for the Michigan Building, Residential and Energy Codes as promulgated by the Michigan Construction Code Commission pursuant to Public Act 230 of 1972, as amended.

Section 2. Mechanical Code Enforcement.

The Township of Elba is hereby designated the enforcing agency in the Township for the Michigan Mechanical Code as promulgated by the Michigan Construction Code Commission pursuant to Public Act 230 of 1972, as amended.

Section 3. Plumbing Code Enforcement.

The Township of Elba is hereby designated the enforcing agency in the Township for the Michigan Plumbing Code as promulgated by the Michigan Construction Code Commission pursuant to Public Act 230 of 1972, as amended.

Section 4. Electrical Code Enforcement.

The Township of Elba is hereby designated the enforcing agency in the Township for the Michigan Electrical Code as promulgated by the Michigan Construction Code Commission pursuant to Public Act 230 of 1972, as amended.

Section 5. Inspectors/Enforcement Officers.

The Township Board shall utilize appropriately qualified individuals to serve as inspectors and enforcement officers for the Building, Plumbing, Electrical, and Mechanical Codes. The Construction Code Authority is hereby designated to provide the inspectors and enforcement officers for each Code. In the alternative, the Township Board may, by motion, designate other agencies or individual inspectors and enforcement officers as it shall choose. All inspectors and enforcement officers are authorized to issue appearance tickets for violations of the Codes.

Section 6. Fees and Bonds.

All fees for permits, bonds and inspections required pursuant to the enforcement of the Building, Mechanical, Electrical, and Plumbing Codes shall be those established by motion of the Board of Directors of the Construction Code Authority. In the alternative, the Township Board may establish its own fees by motion if it so chooses.

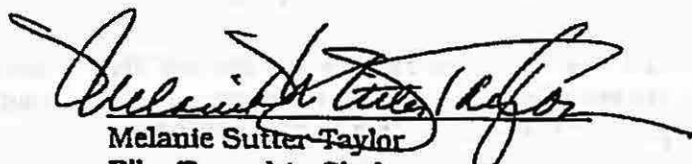
Section 7. Penalties.

Any person, firm or corporation who violates any of the provisions of this ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00, plus costs and other orders and sanctions which may be imposed by the court, for each infraction. Repeat offenses under this ordinance shall be subject to increased fines as provided for in the Civil Infraction Ordinance, Ordinance No. 48.

Section 8. Repeal of Certain Prior Related Ordinances.

Ordinance No. 31.4 adopting the BOCA Code and Ordinance No. 28 regarding the Mechanical Code, Ordinance No. 24 regarding the Plumbing Code, and Ordinance No. 30 regarding the Electrical Code are hereby repealed in their entirety.

The undersigned Clerk of the Township of Elba hereby certifies that this Ordinance was duly adopted by the Elba Township Board on the 10th day of December, 2001, and was published in the Lapeer County Press on the 19th day of December, 2001. This ordinance shall take effect thirty (30) days after said date of publication.


Melanie Sutter Taylor
Elba Township Clerk

TOWNSHIP OF ELBA
County of Lapeer

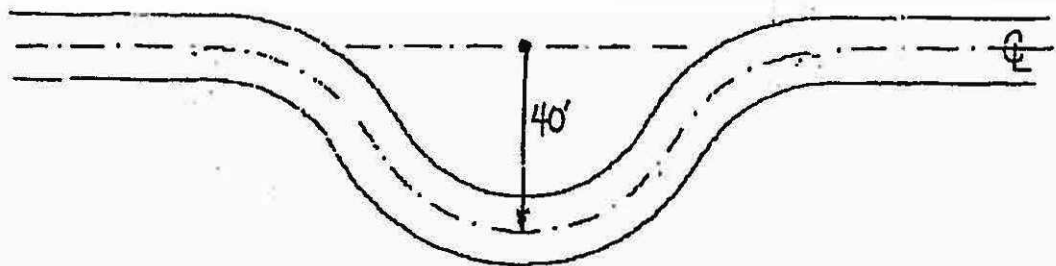
DRIVEWAY ORDINANCE
ORDINANCE NO. 51

PRIVATE DRIVE STANDARDS FOR EMERGENCY ACCESS

In order to improve response time and insure adequate access by emergency services vehicles, all residential uses shall install a driveway meeting the standards of this Section prior to issuance of any certificate of occupancy. The following standards shall apply to all private driveways in all residential zoning districts in Elba Township:

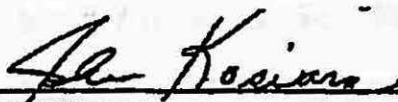
- A. All trees and brush shall be kept cleared for a minimum width and height of fourteen (14) feet for the full length of all private drives.
- B. All topsoil, stumps, and unstable soil shall be removed and backfilled with appropriate granular material and surfaced with gravel, crushed limestone, finely crushed concrete or similar material for a minimum width of twelve (12) feet for the full length of the driveway.
- C. The surface of the driveway shall be properly drained so that water damage and frost heave will not impede access by emergency vehicles.
- D. The above standards shall not apply if the rear of the principal building is one hundred fifty (150) feet or less from the public road right-of-way or easement.
- E. Driveways shall provide a minimum centerline radius of forty (40) feet for all curves

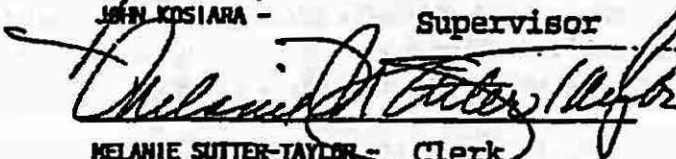
CENTERLINE RADIUS = 40'



The undersigned clerk of the township of Elba hereby certifies that this ordinance was adopted by the Township General Board on the 22nd day of September, 2003 and was published in the

Lapeer County Press on the 28th day of September, 2003. This ordinance will become effective thirty (30) days after said date of publication.


JOHN KOSIARA - Supervisor


MELANIE SUTTER-TAYLOR - Clerk

TOWNSHIP OF ELBA

BOAT ACCESS ORDINANCE
FOR LAKE NEPESSING

ORDINANCE NO. 52

An ordinance to promote and protect, environment, public health, recreational safety, property values and welfare of all persons making use of Lake Nepessing and Lake Nepessing waterfront/adjacent properties owners within the Township by establishing reasonable standards and regulations for Lake Nepessing boat access. It is the intent of this ordinance to grandfather non-conformance boat access sites that have been established prior to the effective date of this ordinance and to not unreasonably exclude public access.

THE TOWNSHIP OF ELBA ORDAINS:

SECTION 1: DEFINITIONS

For the purpose of construction and application of this Ordinance, the following definitions shall apply:

BOAT shall mean a watercraft having a motor, engine or other machinery of more than five horse power or the equivalent, and boat shall also mean a "personal watercraft" as defined in the Marine Safety Act, Act 303 of the Public Acts of 1967, as amended.

BOAT ACCESS shall mean and include boat launching, mooring and docking and over night anchoring from or incidental to a single private waterfront property, public or private road end abutting the lake, private or public park and/or a public or multi boat access site as defined in this ordinance.

DOCK OR DOCKING shall mean the mooring of a boat directly to a pier, which is a platform or other permanent or seasonal fixture extending from the shore, and directly accessible to a separate frontage: and shall also mean the regular anchoring of a boat to a separate frontage.

SEPARATE FRONTAGE means that portion of a lot or parcel of land existing on documentation recorded within the Lapeer County Register of Deeds, which abuts or intersects with the normal high water mark of a lake, whether such lot or parcel is owned by one or more persons, or commonly owned by several persons, or combinations of persons. For the purpose of computing the length of frontage, the measurement shall be along the water's edge at the normal high water mark of the lake as determined by the Department of Natural Resources, or if the Department has not made such a finding, the normal high water mark location shall be determined at the discretion of the Township. Moreover, the measurement shall be made only along a natural shoreline.

KEYHOLE/FUNNEL DEVELOPMENT BOAT ACCESS shall mean the development of a parcel that has a frontage on a body of water. The access point is intended for use by many more persons than a single-family lot. Keyholing occurs as a result of a person purchasing a

waterfront lot to accommodate boat access by owners/residents /guests which may include but not limited to condominiums creating high rise marinas, campgrounds, sub-divisions, planed unit developments etc.

LAKE NEPESSING shall mean the platted boundaries and bodies of water (river, streams, canals etc) providing Boat access into platted boundaries of Lake Nepessing situated wholly within the Township.

LAUNCH or LAUNCHING shall mean the placing of a boat in a lake.

MULTI-BOAT ACCESS SITE shall mean a public or private facility, which extends into or over the lake, or provides dry-docking space, for mooring or docking of boats. A facility for the mooring or docking of a boat or boats owned and operated by a single family residing in one dwelling unit shall not be included within the definition and meaning of multi-boat access site where the docking or mooring facility is property which is owned exclusively by such family and which is a contiguous part of the property which the dwelling is situated.

PERSON shall mean a human being, partnership, corporation, club, association, including a condominium association, and any other entity to which the law provides or imposes rights or responsibilities.

PUBLIC ACCESS shall mean a multi-boat access site operated by a governmental entity, including access from a public road end authorized expressly or implied by a governmental entity.

SECTION 2: STATEMENT OF INTENT

It is the intent of this ordinance to:

1. **Grandfather non-conformance boat access sites that have been established prior to the effective date of this ordinance.**
2. Not unreasonably exclude public boat access.
3. Not allow future boat access sites through keyhole/funnel developments that exceed this ordinance's regulations.
4. Promote and protect the environment, public health, recreational safety, character and aesthetics of the community, property values and welfare of all persons making use of Lake Nepessing by discouraging excessive use that would be contrary to public interests.
5. By necessity, apply to both private and public boat accesses.
6. Adhere to the regulations of the Michigan Department of Natural Resources and the regulations of this Ordinance shall apply. Thus, as to any property which is the subject of dual regulation, the fact that any matter is regulated by one entity shall not relieve or waive compliance of the regulation of the other entity, i.e., the stricter regulation shall apply provided that any ordinance regulation which is found to conflict with state law shall not apply.
7. Prohibit Multi-boat access or public access sites use for separate frontage for the purpose of constructing a dwelling or building for residential, restrooms, recreation, storage, parking, commercial or business use except where prior use was established prior to the effective date of this ordinance. The intent is continue to leave these access sites for established and or deeded back lot access to the lake and still allow for natural watershed via streams, drainage ditches, existing and future culverts etc.

8. Prohibit future Keyhole/Funnel Development Boat Access

SECTION 3: REGULATIONS

1. No boat access shall be permitted on or from a separate frontage, multi-boat access site or public access less than 40 feet unless the separate frontage, multi-boat access site, public access constituted a lot of record prior to the effective date of this ordinance.
2. Not more than (4) boats shall be launched or docked to each separate frontage, multi-boat access site, public access, except as permitted below or prior use was established prior to the effective date of this ordinance.
3. If the continuous length of a separate frontage, multi boat access site or public access is greater than 80 feet one (1) additional boat may be launched or docked for each 80 feet of continuous frontage in excess of the first 40 feet. Maximum of (8) boats.
4. No Multi-boat access or public access sites may be used for separate frontage for the purpose of constructing a dwelling or building for residential, restrooms, recreation, storage, parking, commercial or business use except where prior use was established prior to the effective date of this ordinance. The intent is continue to leave these access sites for established/deeded back lot access to the lake and still allow for natural watershed via streams, drainage ditches, existing and future culverts etc.

SECTION 4: PENALTIES

1. Any person who shall be convicted of a violation of this Ordinance shall be guilty of a misdemeanor and shall be punished by imprisonment for not more than 90 days or by fine of not more than \$500.00/day, or both such imprisonment or fine. Immediate conformance of any condition not in compliance with this ordinance is mandatory. A paid penalty does not relieve persons from compliance with this ordinance.
2. In addition to, or in lieu of, seeking to enforce this Ordinance by proceeding under Section 4.1 above, the Township may institute an action in Circuit Court seeking equitable relief.

SECTION 5: SEVERABILITY

In the event that any one or more sections, provisions, phrases, or words of this Ordinance shall be found to be invalid by a Court of competent jurisdiction, such holding shall not effect the validity and/or the enforceability of the remaining sections, provisions, phrases, or words of this Ordinance unless expressly so determined by the Court.

SECTION 6: EFFECTIVE DATE

This Ordinance shall take effect (30) days from the date of publication stated below, in accordance with Michigan statute.

The undersigned Supervisor and Clerk of the Township of Elba in the County of Lapeer, Michigan do hereby certify the foregoing is a true and correct copy of the ordinance adopted by the Township Board at its regular meeting held on the 22nd day of January, 2007 and published in the Lapeer County Press on the 9th day of February, 2007 in the Synopsis of the Regular General Board Meeting Minutes and on the 21st day of February, 2007 in it's entirety.

John Kenia 2-21-07
ELBA TOWNSHIP SUPERVISOR DATE

Brenda M. O'Neil 2-21-07
ELBA TOWNSHIP CLERK DATE

TOWNSHIP OF ELBA

SANITARY SEWER CONNECTION ORDINANCE
POTTERS LAKE AND ELBA SEWER DRAIN – PHASE II
SPECIAL ASSESSMENT DISTRICT

ORDINANCE NO. 53

AN ORDINANCE REGULATING THE CONNECTION OF BUILDING SEWERS TO PHASE II OF THE POTTERS LAKE ELBA SEWER DRAIN AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. SCOPE. To regulate connections to the Potters Lake and Elba Sewer Drain in the Phase II Special Assessment District.

Section 2. DEFINITIONS. The meaning of the terms used in this ordinance shall be as follows:

BUILDING SEWER. The extension from a structure to the public sewer or other place of disposal.

DISTRICT. The area located in the Township and served by the system as outlined in the attached Appendix I.

PREMISES. The property mentioned in a deed, a definite portion of real estate, a building, a part of a building.

REGULATIONS. Sewer Connection and Sewer Use Regulations for connecting to and use of Potters Lake and Elba Sewer Drain Sewage Disposal and Treatment System promulgated by the Lapeer County Drain Commissioner in August 1998, as amended.

SEWER AVAILABILITY. Public Sewer Main located within 200 feet of the premises.

SYSTEM. The Potters Lake and Elba Sewer Drain Sewage Disposal and Treatment System, Phase II.

Section 3. USE OF PUBLIC SEWERS REQUIRED.

A. The owner of any structure used for human occupancy, employment or other purpose for which Potter Lake and Elba Sewer Drain Phase II is available, is hereby required, at his expense, to connect such structure directly to the proper public sewer within 180 days of the adoption of this Ordinance.

B. The Township hereby adopts the Regulations for the connection to and use of the System.

C. Each and all of the regulations, provisions, penalties, conditions and terms of the Regulations are hereby referred to, adopted, and made a part hereof, as if

fully set out in this Ordinance, with the additions, insertions, deletions and changes prescribed below:

Section 4. SEVERABILITY.

The provisions of this Ordinance are severable, and if any of the provisions, words, phrases, clauses or terms or the application thereof to any person, firm or corporation, or to any circumstances, shall be held invalid, illegal or unconstitutional by any court of competent jurisdiction, such decision or findings shall not in any way affect the validity, legality or constitutionality of any other provision, work phrase, clause or term, and shall continue in full force and effect.

Section 5. PENALTIES.

Any person, firm or corporation who violates any of the provisions of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00, plus costs and other sanctions, for any infraction. Repeat offenses under this Ordinance shall be subject to increased fines as provided for in the Elba Township Civil Infraction Ordinance, being Ordinance No. 48.

- A. Any person who fails to complete a connection to the public sewer required by this Ordinance shall be subject to the Township bringing action for a mandatory injunction to compel such connections.
- B. In addition to any other remedies contained herein, any person violating any of the provisions of this Ordinance shall be liable to the Township for any expenses, loss, or damage suffered by the Township by reason of such violation.
- C. The remedies provided by this Ordinance shall be deemed to be cumulative and not mutually exclusive.

Section 6. EFFECTIVE DATE.

This Ordinance becomes effective thirty (30) days after the date of publication specified below.

The undersigned Supervisor and Clerk of the Township of Elba hereby certify that this Ordinance was adopted by the Elba Township Board on the 27th day of May, 2009. A notice of adoption was published in the Lapeer County Press on the 7th day of June, 2009.


ELBA TOWNSHIP CLERK

APPENDIX I

SECTION NUMBER	PROPERTY ID NUMBER	ASSESSED
5	44-008-005-006-00	7.5
5	44-008-005-019-00	1
5	44-008-005-022-00	1
5	44-008-005-020-00	1
5	44-008-005-026-00	1
5	44-008-005-026-10	1
5	44-008-005-026-20	1
5	44-008-005-027-00	1
5	44-008-005-029-00	1
5	44-008-005-030-00	1
5	44-008-005-031-00	1
5	44-008-005-031-10	1
5	44-008-005-034-00	1
5	44-008-005-035-00	1
5	44-008-005-037-00	2
5	44-008-005-038-00	1
5	44-008-005-039-00	3
5	44-008-005-041-00	1
5	44-008-005-043-00	2
5	44-008-005-044-00	1
5	44-008-005-045-00	1
5	44-008-005-046-00	1
5	44-008-005-047-00	1
5	44-008-005-048-00	1
5	44-008-005-049-00	1
5	44-008-005-050-00	1
5	44-008-005-051-00	1
5	44-008-005-052-00	1
5	44-008-005-054-00	2
	SECTION 5 TOTALS:	40.5
6	44-008-006-020-00	1
6	44-008-006-021-00	1
6	44-008-006-022-00	1
6	44-008-006-023-00	1
6	44-008-006-024-00	1
6	44-008-006-025-00	1
6	44-008-006-026-00	1
6	44-008-006-026-10	1
6	44-008-006-027-00	1
6	44-008-006-028-00	1
6	44-008-006-029-00	1
6	44-008-006-030-00	1
6	44-008-006-031-00	1
6	44-008-006-032-00	1
6	44-008-006-033-00	1

SECTION 6 TOTALS: 15

7	44-008-007-001-00	3.5
7	44-008-007-002-00	1
7	44-008-007-003-00	1
7	44-008-007-004-00	1
7	44-008-007-005-00	1
7	44-008-007-006-00	1
7	44-008-007-007-00	1
7	44-008-007-009-00	1
7	44-008-007-011-00	3
7	44-008-007-012-00	0.5
7	44-008-007-016-00	1
7	44-008-007-017-00	1
7	44-008-007-019-00	1
7	44-008-007-026-00	1
7	44-008-007-027-00	1
7	44-008-007-028-00	1
7	44-008-007-029-00	1
7	44-008-007-030-00	1
7	44-008-007-031-00	1
7	44-008-007-032-00	1
7	44-008-007-033-00	1
7	44-008-007-034-00	1
7	44-008-007-036-00	1
7	44-008-007-038-00	2
7	44-008-007-040-00	1
7	44-008-007-041-00	1

SECTION 7 TOTALS: 31

8	44-008-008-010-00	1
8	44-008-008-011-00	1
8	44-008-008-012-00	1
8	44-008-008-013-00	1
8	44-008-008-018-00	1
8	44-008-008-019-00	1
8	44-08-008-020-00	1
8	44-008-008-021-00	1
8	44-008-008-022-00	1
8	44-008-008-024-00	1
8	44-008-008-025-00	1
8	44-008-008-026-00	1
8	44-008-008-027-00	1
8	44-008-008-028-00	1
8	44-008-008-029-00	1
8	44-008-008-029-10	1
8	44-008-008-030-00	1
8	44-008-008-030-10	1
8	44-008-008-030-20	1
8	44-008-008-031-00	2.5
8	44-008-008-032-00	1

8	44-008-008-034-00	2
8	44-008-008-035-00	1
8	44-008-008-036-00	1
8	44-008-008-037-00	1
8	44-008-008-038-00	1
8	44-008-008-039-00	1
8	44-008-008-040-00	1
8	44-008-008-041-00	1
8	44-008-008-042-00	1
8	44-008-008-043-00	1
8	44-008-008-044-00	1
8	44-008-008-048-00	1
8	44-008-008-049-00	1
8	44-008-008-050-00	1
8	44-008-008-051-00	1
8	44-008-008-052-00	1
8	44-008-008-054-00	1
8	44-008-008-054-10	1
8	44-008-008-055-00	1
8	44-008-008-056-00	1
8	44-008-008-057-00	1
8	44-008-008-058-00	1

SECTION 8 TOTALS: 45.5

E. VILLAGE	44-008-121-001-00	1
E. VILLAGE	44-008-121-003-00	1
E. VILLAGE	44-008-122-001-00	1
E. VILLAGE	44-008-122-003-00	1
E. VILLAGE	44-008-123-001-00	1
E. VILLAGE	44-008-123-002-00	1
E. VILLAGE	44-008-123-004-00	1
E. VILLAGE	44-008-124-002-00	1
E. VILLAGE	44-008-124-003-00	1
E. VILLAGE	44-008-125-001-00	1
E. VILLAGE	44-008-125-002-00	1
E. VILLAGE	44-008-125-003-00	1
E. VILLAGE	44-008-126-001-00	1
E. VILLAGE	44-008-126-003-00	1
E. VILLAGE	44-008-126-004-00	1
E. VILLAGE	44-008-127-001-00	1
E. VILLAGE	44-008-127-003-00	1
E. VILLAGE	44-008-127-004-00	1
E. VILLAGE	44-008-128-001-00	1
E. VILLAGE	44-008-128-004-00	1

ELBA VILLAGE TOTALS: 20

GRAND TOTALS: 152

ORDINANCE ADDRESSING
FLOODPLAIN MANAGEMENT
PROVISIONS OF THE STATE CONSTRUCTION CODE
Township of Elba, County of Lapeer

ORDINANCE NO. 54

An ordinance to designate an enforcing agency to discharge the responsibility of the Township of Elba located in Lapeer County, and to designate regulated flood hazard areas under the provision of the State Construction Code Act No. 230 of the Public Acts of 1972, as amended.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. AGENCY DESIGNATED. Pursuant to the provisions of the state construction code, in accordance with Section 8b (6) of Act 230, of Public Acts of 1972 as amended, the building Official of the Township of Elba is hereby designated as the enforcing agency to discharge the responsibility of the Township of Elba under Act 230, of the Public Acts of 1972 as amended, State of Michigan. The Township of Elba assumes responsibility for the administration and enforcement of said Act through out the corporate limits of the community adopting this ordinance.

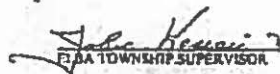
Section 2. CODE APPENDIX ENFORCED. Pursuant to the provisions of the state construction code, in accordance with Section b(6) of Act 230, of the Public Acts of 1972 as amended, as Appendix G, of the Michigan Building Code shall be enforced by the enforcing agency within the Township of Elba.

Section 3. DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS. The Federal Emergency Management Agency (FEMA) Flood Insurance (FIS) Entitled Lapeer County, Michigan (all jurisdictions) and dated September 19, 2007 and the Flood Insurance Rate Map (s) (FIRMS) panel number(s) of: 26087C0250E; 26087C0261E; 26087C0262E; 26087C0263E; 26087C0264E; 26087C0375E; 26087C0400E and dated September 19, 2007, are adopted by reference for the purpose of administration of the Michigan Construction Code, and declared to be part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of table R301.2(1) of the Michigan Residential Code.

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

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

WE THE UNDERSIGNED, Supervisor and Clerk of the Township of Elba, Lapeer County Michigan do hereby certify that this ordinance was passed by the Elba Township Board the 10th day of September 2007 and was published in the County Press Newspaper on the 14th day of September 2007.


JULIE KENARI
ELBA TOWNSHIP SUPERVISOR


BRENDA M. O'CONNELL
ELBA TOWNSHIP CLERK

ELBA TOWNSHIP ORDINANCE NO. 55

AN ORDINANCE TO PROVIDE FOR THE CONSTRUCTION, INSTALLATION, FURNISHING AND EQUIPPING OF IMPROVEMENTS TO THE EXISTING WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM OF THE TOWNSHIP OF ELBA; TO RECONFIRM ESTABLISHMENT OF THE SYSTEM PURSUANT TO ACT 94, PUBLIC ACTS OF MICHIGAN, 1933, AS AMENDED; TO PROVIDE FOR THE ISSUANCE AND SALE OF REVENUE BONDS TO PAY THE COST THEREOF; TO PRESCRIBE THE FORM OF THE BONDS; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; TO PROVIDE FOR SECURITY FOR THE BONDS; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF THE REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE BONDS IN ENFORCEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE BONDS AND THE SYSTEM.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Definitions. Unless the context indicates that another meaning is intended, the following terms as used in this Ordinance have the following meanings:

(a) "**Act 94**" means Act No. 94, Public Acts of Michigan, 1933, as amended.

(b) "**Adjusted Net Revenues**" means for any operating year the excess of revenues over expenses for the System determined in accordance with generally accepted accounting principles, to which shall be added depreciation, amortization, interest expense on Bonds and payments to the Issuer in lieu of taxes, to which may be made the following adjustments:

(i) Revenues may be augmented by the amount of any rate increases adopted prior to the issuance of additional Bonds or to be placed into effect before the time principal or interest on the additional Bonds becomes payable from Revenues as applied to quantities of service furnished during the operating year or portion thereof that the increased rates were not in effect.

(ii) Revenues may be augmented by amounts which may be derived from rates and charges to be paid by new customers of the System.

The adjustment of revenues and expenses by the factors set forth in clauses (i) and (ii) above shall be reported upon by professional engineers or certified public accountants or other experts not in the regular employment of the Issuer.

- (c) **"Authority"** means the Michigan Municipal Bond Authority.
- (d) **"Authorized Officers"** means the Township Supervisor, Township Clerk and Township Treasurer.
- (e) **"Bond" or "Bonds"** mean the Series 2009 Bond, together with any additional Bonds of equal standing hereafter issued.
- (f) **"Engineers"** means Tetra Tech, Richmond, Michigan.
- (g) **"Issuer" or "Township"** means the Township of Elba, County of Lapeer, State of Michigan.
- (h) **"MDEQ"** means the Michigan Department of Environmental Quality.
- (i) **"Project"** means the acquisition, construction and installation of improvements to the Issuer's existing Lake Nepessing water supply and sewage disposal system, consisting generally of existing lagoon sludge removal, pond liner and valve replacements and other wastewater treatment plant site repairs, together with rights of way, attachments and appurtenances thereto.
- (j) **"Revenues" and "Net Revenues"** mean the revenues and net revenues of the System and shall be construed as defined in Section 3 of Act 94, including with respect to "Revenues" the earnings derived from the investment of moneys in the various funds and accounts established by this Ordinance, and other revenues derived from or pledged to operation of the System.
- (k) **"Series 2009 Bond"** means the Wastewater Treatment System Revenue Bond, Series 2009, of the Issuer in the principal amount of not to exceed \$980,000 authorized by this Ordinance.
- (l) **"Sufficient Government Obligations"** means direct obligations of the United States of America or obligations the principal and interest on which are fully guaranteed by the United States of America, not redeemable at the option of the issuer, the principal and interest payments on which, without reinvestment of the interest, come due at such times and in such amounts as are fully sufficient to pay the interest as and when due on the Bonds, and the principal of and redemption premium, if any, as and when it comes due on the Bonds whether on the stated maturity date or upon earlier redemption. Securities representing such obligations shall be placed in trust with a bank or trust company, and if any of the Bonds are to be called for redemption prior to maturity, irrevocable instructions to call such Bonds for redemption shall be given to the paying agent.
- (m) **"Supplemental Agreement"** means the supplemental agreement among the Issuer, the Authority and MDEQ relating to the Series 2009 Bond.

(n) "**System**" means the Lake Nepessing Sewer District wastewater treatment system of the Issuer, including such facilities thereof as are now existing or are acquired and constructed as the Project, and all enlargements, extensions, repairs and improvements thereto hereafter made.

(o) "**Transfer Agent**," whether or not capitalized, means the Township Clerk acting as the transfer agent with respect to the Bonds.

Section 2. Necessity: Approval of Plans and Specifications. It is hereby determined to be a necessary public purpose of the Issuer to acquire and construct the Project in accordance with the plans and specifications prepared by the Engineers, which plans and specifications are hereby approved. The Project qualifies for the Clean Water Revolving Fund financing program being administered by the MDEQ and the Authority, whereby bonds of the Issuer are sold to the Authority and bear interest at a fixed rate of two and one-half percent (2.50%) per annum.

Section 3. Costs: Useful Life. The cost of the Project is estimated not to exceed Nine Hundred Eighty Thousand Dollars (\$980,000) including the payment of incidental expenses as specified in Section 4 of this Ordinance, which estimate of cost is hereby approved and confirmed, and the period of usefulness of the Project is estimated to be not less than twenty (20) years.

Section 4. Payment of Cost: Bonds Authorized. To pay all or part of the costs of acquisition, construction and installation of the Project, including payment of legal, engineering, financial and other expenses incidental thereto and to the issuance and sale of the Series 2009 Bond, the Issuer shall borrow the sum of not to exceed Nine Hundred Eighty Thousand Dollars (\$980,000) from the Authority and issue its Series 2009 Bond therefor pursuant to the provisions of Act 94. Any remaining costs of the Project shall be paid from grant funds and Issuer funds on hand and legally available for such use.

Section 5. Issuance of Series 2009 Bond: Details. The Series 2009 Bond of the Issuer, to be designated the **WASTEWATER TREATMENT SYSTEM REVENUE BOND, SERIES 2009**, is authorized to be issued in the aggregate principal sum of not to exceed Nine Hundred Eighty Thousand Dollars (\$980,000) as finally determined by order of the MDEQ for the purpose of paying the costs of the Project, including the costs incidental to the issuance, sale and delivery of the Series 2009 Bond. The Series 2009 Bond shall be payable solely out of the Net Revenues as set forth more fully in Section 7 of this Ordinance. The Series 2009 Bond shall be in the form of a single fully-registered, nonconvertible bond in the denomination of the full principal amount thereof, dated the date of delivery, payable in principal installments serially as set forth in Section 14 of this Ordinance or as finally determined by order of the MDEQ at the time of sale of the Series 2009 Bond and approved by the Authority and an Authorized Officer. The final determination of the principal amount and the payment dates and amounts of principal installments of the Series 2009 Bond shall be evidenced by execution of a Purchase Contract (the "**Purchase Contract**") between the Issuer and the Authority providing for sale of the Series 2009 Bond, and any one or more of the Authorized Officers are hereby authorized and directed to execute and deliver the Purchase Contract when it is in final form and to make the determinations referred to above.

The Series 2009 Bond shall bear interest at a rate of two and one-half percent (2.50%) per annum on the outstanding principal thereof or such other rate as evidenced by execution of the Purchase Contract, but in any event not to exceed the rate permitted by law, payable semiannually on the dates as finally determined in the Purchase Contract. The Series 2009 Bond principal amount is expected to be drawn down by the Issuer periodically, and interest on the principal amount shall accrue from the date such principal amount is drawn down by the Issuer.

The Township Supervisor and Township Clerk are authorized to execute and deliver the Series 2009 Bond in accordance with the delivery instructions of the Authority. The Bond shall be signed with the manual or facsimile signatures of the Township Supervisor and Township Clerk and shall have the Issuer's seal impressed or printed thereon. The Series 2009 Bond bearing the manual or facsimile signatures of the Township Supervisor and the Township Clerk sold to the Authority shall require no further authentication.

The Series 2009 Bond shall not be convertible or exchangeable into more than one fully-registered bond. Principal of and interest on the Series 2009 Bond shall be payable as provided in the form of the Series 2009 Bond set forth in Section 14 of this Ordinance.

The Series 2009 Bond may be subject to redemption prior to maturity by the Issuer only with the prior written consent of the Authority and on such terms as may be required by the Authority.

The Township Clerk shall record, on the registration books kept by the Township Clerk, payment by the Issuer of each installment of principal or interest, or both, when made and the canceled checks or other records evidencing such payments shall be returned to and retained by the Township Clerk.

Upon payment by the Issuer of all outstanding principal of and interest on the Series 2009 Bond, the Authority shall deliver the Series 2009 Bond to the Issuer for cancellation.

Section 6. Registration and Transfer. Any Bond may be transferred upon the books required to be kept pursuant to this Section 6 by the person in whose name it is registered, in person or by the registered owner's duly authorized attorney, upon surrender of the Bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the transfer agent. Whenever any Bond shall be surrendered for transfer, the Issuer shall execute and deliver a new Bond, for like aggregate principal amount, which shall require no further authentication. The transfer agent shall require payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer. The transfer agent shall not be required (i) to issue, register the transfer of or exchange any Bond during a period beginning at the opening of business 15 days before the day of the giving of a notice of redemption of Bonds selected for redemption as described in the form of the Series 2009 Bond contained in Section 14 of this Ordinance and ending at the close of business on the day of that giving of notice, or (ii) to register the transfer of or exchange any Bond so selected for

redemption in whole or in part, except the unredeemed portion of Bonds being redeemed in part. The Issuer shall give the transfer agent notice of the call for redemption at least 20 days prior to the date notice of redemption is to be given.

The transfer agent shall keep or cause to be kept, at its principal or designated office, sufficient books for the registration and transfer of the Bonds, which shall at all times be open to inspection by the Issuer; and upon presentation for such purpose, the transfer agent shall, under such reasonable regulations as it may prescribe, transfer or cause to be transferred, on such books, Bonds as provided above.

If any Bond shall become mutilated, the issuer, at the expense of the registered owner of the Bond, shall execute and deliver a new Bond of like tenor (which shall require no further authentication) in exchange and substitution for the mutilated Bond, upon surrender to the transfer agent of the mutilated Bond. If any Bond issued under this Ordinance shall be lost, destroyed or stolen, then evidence of the loss, destruction or theft may be submitted to the transfer agent, and if such evidence is satisfactory to the transfer agent and indemnity satisfactory to the transfer agent shall be given, and if all requirements of any applicable law (including Act No. 354, Public Acts of Michigan, 1972, as amended ("**Act 354**"), being sections 129.131 to 129.135, inclusive, of the Michigan Compiled Laws) have been met, the Issuer, at the expense of the owner, shall execute and deliver a new Bond of like tenor (which shall require no further authentication) and bearing the statement required by Act 354, or any applicable law hereafter enacted, in lieu of and in substitution for the Bond so lost, destroyed or stolen. If any such Bond shall have matured or shall be about to mature, instead of issuing a substitute Bond the Issuer may pay the same without surrender thereof.

Section 7. Payment of Bonds; Security. The Series 2009 Bond and the interest thereon shall be payable solely from the Net Revenues, and to secure such payment, there is hereby created a statutory lien upon the entire Net Revenues, which shall be a first lien to continue until payment in full of the principal of and interest on all Bonds payable from the Net Revenues, including, until sufficient cash or Sufficient Government Obligations have been deposited in trust for payment in full of all Bonds of a series then outstanding, principal and interest on the Bonds of such series to maturity, or, if called for redemption, to the date fixed for redemption together with the amount of the redemption premium, if any. Upon deposit of cash or Sufficient Government Obligations, as provided in the previous sentence, the statutory lien shall be terminated with respect to that series of Bonds, the registered owners of that series shall have no further rights under this Ordinance except for payment from the deposited funds, and the Bonds of that series shall no longer be considered to be outstanding under this Ordinance.

Section 8. Bondholders' Rights; Receiver. The registered owner or registered owners of the Bonds representing in the aggregate at least twenty percent (20%) of the entire principal amount thereof then outstanding may, by suit, action, mandamus or other proceedings, protect and enforce the statutory lien upon the Net Revenues of the System and may, by suit, action, mandamus or other proceedings, enforce and compel performance of all duties of the officers of the Issuer, including the fixing of sufficient rates, the collection of Revenues, the proper segregation of the Revenues of the System and the proper application thereof. The statutory lien upon the Net

Revenues, however, shall not be construed to compel the sale of the System or any part thereof.

If there is a default in the payment of the principal of or interest on the Bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the System on behalf of the Issuer and under the direction of the court, and by and with the approval of the court to perform all of the duties of the officers of the Issuer more particularly set forth herein and in Act 94.

The registered owner or registered owners of the Bonds shall have all other rights and remedies given by Act 94 and law, for the payment and enforcement of the Bonds and the security therefor.

Section 9. Establishment of System; Management; Fiscal Year. The Issuer hereby reconfirms the establishment of the System pursuant to Act 94, comprised of the System and any additions, extensions or improvements thereto. The operation, repair and management of the System and the acquiring of the Project shall continue to be under the supervision and control of the Township Board. The Township Board may employ any person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the System. The Township Board may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the System. The System shall be operated on the basis of an operating year which shall coincide with the Issuer's fiscal year.

Section 10. No Free Service or Use. No free service or use of the System, or service or use of the System at less than cost, shall be furnished by the System to any person, firm or corporation, public or private, or to any public agency or instrumentality, including the Issuer.

Section 11. Fixing and Revising Rates; Rate Covenant. The rates now in effect and the rate adjustments to be placed into effect are estimated to be sufficient to provide for (i) the payment of the expenses of administration and operation of the System and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, (ii) the payment of the principal of and interest on the Bonds as the same become due and payable, and the maintenance of the reserve therefor, if any, and (iii) all other obligations, expenditures and funds for the System required by law and this Ordinance. The rates shall be fixed and revised from time to time as may be necessary to produce these amounts, and the Issuer hereby covenants and agrees to fix and maintain rates for services furnished by the System at all times sufficient to provide for the foregoing.

Section 12. Funds and Accounts, Flow of Funds. Commencing upon the adoption of this Ordinance, all funds belonging to the System shall be continued and maintained as provided herein and all Revenues of the System shall continue to be set aside as collected and credited to a fund to be designated the WASTEWATER TREATMENT SYSTEM RECEIVING FUND (the "*Receiving Fund*"). The Revenues credited to the Receiving Fund are pledged for the purpose of the following accounts

and shall be transferred or debited from the Receiving Fund periodically in the manner, at the times and in the order of priority specified below.

A. **OPERATION AND MAINTENANCE ACCOUNT.** Out of the Revenues credited to the Receiving Fund there shall be first set aside in, or credited to, a fund designated the OPERATION AND MAINTENANCE ACCOUNT (the "*Operation and Maintenance Account*"), monthly, a sum sufficient to provide for the payment of the next month's expenses of administration and operation of the System and such current expenses for the maintenance thereof as may be necessary to preserve the System in good repair and working order.

A budget shall be prepared by the Issuer prior to the commencement of each ensuing operating year, showing in detail the estimated costs of administration, operation and maintenance of the System for such operating year.

B. **BOND AND INTEREST REDEMPTION ACCOUNT.** There shall be established and maintained a separate depository account designated the BOND AND INTEREST REDEMPTION ACCOUNT (the "*Redemption Account*"); and the moneys on deposit therein from time to time shall be used solely for the purpose of paying the principal of and redemption premium (if any) and interest on the Series 2009 Bond.

Out of the Revenues remaining in the Receiving Fund after provision for the Operation and Maintenance Fund, there shall be set aside each month commencing October 1, 2009 in the Redemption Account a sum proportionately sufficient to provide for the payment when due of the current principal amount of and interest on the Series 2009 Bond, less any amount in the Redemption Account representing accrued interest on the Series 2009 Bond or investment income on amounts on deposit in the Redemption Account.

Commencing on the first day of the first fiscal year quarter following the date of the advance of the initial principal installment of the Series 2009 Bond to the Issuer (the "*First Advance Date*") and until the Issuer shall have received the entire principal amount of the Series 2009 Bond, the amount so set aside each month to provide for the payment of interest next due on the Series 2009 Bond shall be equal to the product of (i) the total amount of interest on the Series 2009 Bond next coming due, multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the number of months from the First Advance Date to such next interest payment date (subject, however, to any principal forgiveness as provided for in the maturity schedule attached as **Schedule A**). Commencing on the first interest payment date after the entire principal amount of the Series 2009 Bond has been received by the Issuer, the amount so set aside each month to provide for the payment when due of interest on the Series 2009 Bond shall be one-sixth (1/6) of the total amount of interest on the Series 2009 Bond next coming due.

The amount so set aside each month to provide for the payment of

principal of the Series 2009 Bond next coming due, commencing on the first day of the first fiscal year quarter following the First Advance Date, shall be equal to the product of (i) the total amount of principal next coming due by maturity, multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the number of months from that day to the first principal payment date of principal next coming due by maturity (subject, however, to any principal forgiveness as provided for in Schedule A); and thereafter, commencing on such first principal payment date, the amount so set aside each month to provide for the payment of principal shall be 1/12 of the amount of principal next coming due by maturity. If there is any deficiency in the amount previously set aside, that deficiency shall be added to the next succeeding monthly requirements. The amount to be set aside for the payment of principal and interest on any date shall not exceed the amount which, when added to the money on deposit in the Redemption Account, including investment income thereon, is necessary to pay principal and interest due on the Series 2009 Bond on the next succeeding principal payment date.

No further payments need be made into the Redemption Account after enough of the principal installments of the Series 2009 Bond have been retired so that the amount then held in the Redemption Account (including the Bond Reserve Account, if any), is equal to the entire amount of principal and interest which will be payable at the time of maturity of all the principal installments of the Series 2009 Bond received by the Issuer and then remaining outstanding.

The moneys in the Redemption Account shall be invested in accordance with this Ordinance, and profit realized or income earned on such investment shall be used or transferred as provided in this Ordinance.

C. REPLACEMENT AND IMPROVEMENT ACCOUNT. There shall next be continued and maintained an account designated the REPLACEMENT AND IMPROVEMENT ACCOUNT (the "*Replacement Account*"); and the money on deposit therein from time to time shall be used solely for the purpose of making repairs, replacements, improvements, enlargements or extensions to the System, including but not limited to any buildings or structures related to the System. Out of the Revenues and moneys of the System remaining in the Receiving Fund each year after provision has been made for the required deposit of moneys into the Operation and Maintenance Account and the Redemption Account, there may be deposited into the Replacement Account the amount, if any, as determined from time to time by the Issuer in its discretion.

D. SURPLUS MONEYS. Thereafter, any Revenues in the Receiving Fund after satisfying all the foregoing requirements of this Section 12 may, at the discretion of the Issuer, be used in any of the following ways:

1. Transferred to the Replacement Account.
2. Transferred to the Redemption Account and used for the purchase of Bonds on the open market at not more than the fair market value thereof or used to redeem Bonds prior to

maturity pursuant to Section 5 of this Ordinance.

3. Retained in the Receiving Fund.

Section 13. Bond Proceeds. The proceeds from the sale of the Series 2009 Bond as received by the Issuer shall be deposited into an account, separate from other money of the Issuer and held in a bank or banks qualified to act as depository of such proceeds of sale under the provisions of Section 15 of Act 94, designated the 2009 CONSTRUCTION FUND (the "*Construction Fund*"). Moneys in the Construction Fund shall be applied solely in payment of the cost of the Project including any engineering, legal and other expenses incident thereto and to the financing thereof, and shall be fully expended on Project costs within three years after the date of delivery of the Series 2009 Bond. Payments for construction, either on account or otherwise, shall not be made unless the registered engineer in charge of such work shall file with the Township Board a signed statement to the effect that the work has been completed in accordance with the plans and specifications therefor, that such work was done pursuant to and in accordance with the contract therefor (including properly authorized change orders), that such work is satisfactory and that such work has not been previously paid for.

Any unexpended balance of the proceeds from the sale of the Series 2009 Bond remaining in the Construction Fund after completion of the Project shall, at the discretion of the Township Board, be used either for further improvements, enlargements and extension to the System, if, at the time of such expenditures, such use is approved by the MDEQ or the Michigan Department of Treasury if such permission is then required by law, or for the purpose of purchasing Series 2009 Bonds on the open market at not more than the fair market value thereof, but not more than the price at which the Series 2009 Bond may next be called for redemption, or used for the purpose of paying principal of the Series 2009 Bond upon maturity or upon redemption prior to maturity.

Section 14. Bond Form. The Series 2009 Bond shall be in substantially the following form, subject to such changes as may be required by the Authority:

**UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF LAPEER**

TOWNSHIP OF ELBA

**WASTEWATER TREATMENT SYSTEM
REVENUE BOND, SERIES 2009**

REGISTERED OWNER: Michigan Municipal Bond Authority
PRINCIPAL AMOUNT: Nine Hundred Eighty Thousand Dollars (\$980,000)
DATE OF ORIGINAL ISSUE: September 21, 2009

The TOWNSHIP OF ELBA, County of Lapeer, State of Michigan (the "*Issuer*"), for value received, hereby promises to pay, but from the Net Revenues of the System

(as defined below), to the Michigan Municipal Bond Authority (the "**Authority**"), or registered assigns, the Principal Amount set forth above, or so much thereof as shall have been advanced to the Issuer pursuant to a **Purchase Contract** between the Issuer and the Authority and a Supplemental Agreement by and among the Issuer, the Authority and the State of Michigan acting through the Department of Environmental Quality, in lawful money of the United States of America.

During the time funds are being drawn down by the Issuer under this Bond, the Authority will periodically provide the Issuer a statement showing the amount of principal that has been advanced and the date of each advance, which statement shall constitute prima facie evidence of the reported information; provided that no failure on the part of the Authority to provide such a statement or to reflect a disbursement or the correct amount of a disbursement shall relieve the Issuer of its obligation to repay the outstanding principal amount actually advanced (subject, however, to any principal forgiveness as provided for in **Schedule A**), all accrued interest thereon, and any other amount payable with respect thereto in accordance with the terms of this Bond.

The outstanding principal amount of this Bond shall be payable on the dates and in the amounts set forth on the maturity schedule attached as **Schedule A** hereto and made a part hereof, as it may be adjusted if less than \$980,000 is disbursed to the Issuer or if a portion of the outstanding principal amount of this Bond is redeemed as provided below, with interest on the outstanding principal that has been advanced to the Issuer from the date of such advance until paid at the rate of two and one-half percent (2.50%) per annum. Interest is first payable on April 1, 2010 and semiannually thereafter, and principal is payable on the first day of April commencing April 1, 20__ (as identified in the Purchase Contract) and annually thereafter.

This Bond may be subject to redemption prior to maturity by the Issuer only with the prior written consent of the Authority and on such terms as may be required by the Authority.

Notwithstanding any other provision of this Bond, as long as the Authority is the owner of this Bond, (a) this Bond is payable as to principal, premium, if any, and interest at The Bank of New York Mellon Trust Company, N.A. or at such other place as shall be designated in writing to the Issuer by the Authority (the "**Authority's Depository**"); (b) the Issuer agrees that it will deposit with the Authority's Depository payments of the principal of, premium, if any, and interest on this Bond in immediately available funds by 12:00 noon at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise; in the event that the Authority's Depository has not received the Issuer's deposit by 12:00 noon on the scheduled day, the Issuer shall immediately pay to the Authority as invoiced by the Authority an amount to recover the Authority's administrative costs and lost investment earnings attributable to that late payment; and (c) written notice of any redemption of this Bond shall be given by the Issuer and received by the Authority's Depository at least 40 days prior to the date on which such redemption is to be made.

Additional Interest

In the event of a default in the payment of principal or interest hereon when due, whether at maturity, by redemption or otherwise, the amount of such default shall bear interest (the "**additional interest**") at a rate equal to the rate of interest which is two

percent above the Authority's cost of providing funds (as determined by the Authority) to make payment on the bonds of the Authority issued to provide funds to purchase this Bond but in no event in excess of the maximum rate of interest permitted by law. The additional interest shall continue to accrue until the Authority has been fully reimbursed for all costs incurred by the Authority (as determined by the Authority) as a consequence of the Issuer's default. Such additional interest shall be payable on the interest payment date following demand of the Authority. In the event that (for reasons other than the default in the payment of any municipal obligation purchased by the Authority) the investment of amounts in the reserve account established by the Authority for the bonds of the Authority issued to provide funds to purchase this Bond fails to provide sufficient available funds (together with any other funds which may be made available for such purpose) to pay the interest on outstanding bonds of the Authority issued to fund such account, the Issuer shall and hereby agrees to pay on demand only the Issuer's pro rata share (as determined by the Authority) of such deficiency as additional interest on this Bond.

For prompt payment of principal and interest on this Bond, the Issuer has irrevocably pledged the revenues of its Lake Nepessing Sewer District wastewater treatment system, including all appurtenances, extensions and improvements thereto (the "*System*"), after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "*Net Revenues*"), and a statutory lien thereon is hereby recognized and created.

This Bond is a single, fully-registered, non-convertible bond in the principal sum indicated above issued pursuant to an Ordinance duly adopted by the Township Board of the Issuer on August 24, 2009 (the "*Ordinance*"), and under and in full compliance with the Constitution and statutes of the State of Michigan, including Act No. 94, Public Acts of Michigan, 1933, as amended, for the purpose of paying the costs of acquisition, construction and installation of improvements to the System.

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 additional bonds of equal or prior standing with this Bond may hereafter be issued and the general covenants and provisions pursuant to which this Bond is issued, reference is made to the Ordinance.

This Bond is a self-liquidating bond payable as to both principal and interest solely from the Net Revenues of the System. The principal of and interest on this Bond are secured by the statutory lien referred to above.

The Issuer has covenanted and agreed, and hereby covenants and agrees, to fix and maintain at all times while any bonds payable from the Net Revenues of the System shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the principal of and interest on the bonds of this issue, as and when the same become due and payable, and to maintain a bond redemption fund (including a bond reserve account, if any) therefore, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinance.

This Bond is transferable only upon the books of the Issuer by the registered owner in person or the registered owner's attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the transfer agent, duly executed by the registered owner or the registered owner's attorney duly authorized in writing, and thereupon a new Bond in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefore as provided in the Ordinance authorizing the Bonds, and upon payment of the charges, if any, therein prescribed.

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

IN WITNESS WHEREOF, the Township of Elba, County of Lapeer, State of Michigan, by its Township Board, has caused this Bond to be executed with the facsimile or manual signatures of its Supervisor and its Clerk and the corporate seal or a facsimile thereof to be impressed or printed hereon, all as of the Date of Original Issue set forth above.

**TOWNSHIP OF ELBA
MICHAEL BOSKEE, SUPERVISOR
BRENDA M. JOHNSON, CLERK**

ELBA TOWNSHIP

ORDINANCE NO. 56

An ordinance to repeal Ordinance No. 32.5 and adopt a new ordinance regulating blight and blighting conditions, and to prescribe penalties for violations thereof.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Purpose.

It is the purpose of this ordinance to prevent, reduce or eliminate blight or potential blight in the Township by the prevention or elimination of certain environmental causes of blight or blighting factors which exist or which may in the future exist in the Township.

Section 2. Causes of Blight or Blighting Factors

It is determined that the following uses, structures and activities are causes of blight or blighting factors which, if allowed to exist, will tend to result in blighted or undesirable neighborhoods. On and after the effective date of this ordinance, no person, firm or corporation of any kind shall maintain or permit to be maintained, any of these causes of blight or blighting factors upon any property in the Township owned, leased, rented or occupied by such person, firm or corporation.

- A. In any area zoned for residential and/or commercial purposes, the storage upon any property of junk automobiles, except in a completely enclosed building. For the purpose of this ordinance, the term junk automobiles shall include any motor vehicle which is not licensed for use upon the highways of the State of Michigan for a period in excess of thirty (30) days and shall also include, whether licensed or not, any motor vehicle which is inoperative for any reason.
- B. In any area zoned for residential and/or commercial purposes, the storage upon any property of building materials, except in a completely enclosed building, unless there is in force a valid building permit issued by the Township for construction upon the property and the materials are intended for use in connection with that construction. Building materials shall include, but shall not be limited to, lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure.
- C. In any area, the storage or accumulation of junk, trash, rubbish or refuse of any kind, except in a completely enclosed building. Domestic refuse shall be allowed if stored in such a manner as not to create a nuisance and is stored ten (10) feet from any other residential structure, for a period not to exceed seven (7) days. The term junk shall include, but shall not be limited to, parts of machinery or motor vehicles, unused stoves or other appliances stored in the open, remnants of woods, metals or cast-off

material of any kind, whether or not it could be put to any reasonable use.

- D. In any area, the existence of any structure or part of any structure which because of fire, wind or other natural disaster, or physical deterioration, is no longer habitable as a dwelling or useful for the purpose for which it may have been intended.
- E. In any area, the existence of any vacant or abandoned dwelling, garage or other outbuilding unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise kept protected against the elements, animals, vandals or entry by unauthorized persons.
- F. In any area, the existence of any partially completed structure unless such structure is in the course of construction in accordance with a valid and subsisting building permit issued by the Township and unless such construction is completed within a reasonable time.
- G. In any area, the storage of machinery parts of business or work-related tools or materials except in a completely enclosed building.
- H. In any area, the existence of any abandoned or non-functional pool, unless it is drained and kept free of standing water, completely covered and surrounded by a locked enclosure.

Section 3. Enforcement and Penalties

- (A) Any violation of this ordinance is designated as a municipal civil infraction and violators shall be subject to the civil fines, sanctions, remedies and procedures as set forth in Ordinance No. 48, the Township Municipal Civil Infraction Ordinance.
- (B) A violation of this ordinance shall also be deemed a public nuisance and the Township is hereby authorized to enter into and upon that person's land to abate the nuisance and to assess against the property all costs and expenses it incurs abating the nuisance.

Section 4. Repeal of Ordinance No. 32.5.

The Township hereby repeals Ordinance No. 32.5 in its entirety.

Section 5. Effective Date.

This Ordinance shall become effective thirty (30) days after publication.

At a regular meeting of the Board of Trustees of Elba Township held on November 9th, 2009, adoption of the foregoing ordinance was moved by CONNELL and supported by WILCOX.

Voting for: BOSKEE, SUTER, JOHNSON, WILCOX, CONNELL, STOCK AND NELSON

Voting against: 0

The supervisor declared the ordinance adopted.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 56 which was enacted by the Elba Township Board of Trustees at a regular meeting held on November 9th, 2009.


ELBA TOWNSHIP CLERK

**ELBA TOWNSHIP
ORDINANCE NO. 57**

An ordinance to regulate noxious weeds in the Township.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Weed Growth Prohibited.

Subject to the terms of this ordinance, an owner, agent or occupant of premises shall not permit or maintain any growth of noxious weeds, nor any growth of grass or other rank vegetation to a greater height than eight (8) inches on the average, nor any accumulation of dead weeds, grass or brush.

Section 2. Definition of Noxious Weeds.

Noxious weeds are defined as 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 elatior* 1.) poison ivy (*rhus toxicodendron*) and poison sumac (*toxicondendron vernix*).

Section 3. Duty of Owner, Agent or Occupant.

It shall be the duty of all owners, agents or occupants of any premises upon which weeds, as defined herein, are growing, either:

(A) Within platted subdivisions in which buildings have been erected upon 60 percent or more of the lots, or upon lots less than one acre in size, to cut and remove or destroy by lawful means such weeds and grass as often as may be necessary to comply with the provisions of this ordinance;

(B) On parcels greater than one acre in size, to a depth of one hundred sixty five (165) feet or the depth of the ownership, whichever is the lesser, to cut and remove or destroy by lawful means such weeds and grass as often as may be necessary to comply with the provisions of this ordinance.

This ordinance does not apply to weeds in fields devoted to growing any small grain crop such as wheat, oats, barley or rye or on premises being cultivated as part of generally accepted agricultural practices.

Section 4. Action by Township upon failure of owner to comply.

If any person fails to comply with the provisions of this ordinance by the specified time, the Township Supervisor or his designee shall enter upon the land and cut the prohibited grasses and/or destroy the noxious weeds. The Supervisor or his designee shall keep an accurate account of all expense incurred with respect to each parcel of

land entered upon in carrying out the provisions of this ordinance and shall make a sworn statement of the account and present it to the Township Treasurer.

Section 5. Collection of costs from owner.

Expenses incurred in the destruction shall be paid by the owner of the land and the Township shall have a lien against the land for the amount of the expense. The Township shall collect the lien pursuant to Ordinance No. 48, the Township Municipal Civil Infraction Ordinance.

Section 6. Violations.

A violation of the provisions of this ordinance shall constitute a municipal civil infraction subject to the provisions of Ordinance No. 48.

Section 7. Notice of Requirements.

The Township clerk shall publish a notice in a newspaper of general circulation in the county during the month of March that weeds not cut by May 1 of that year or as often as required by this ordinance may be cut or destroyed by the Township and the owner of the property charged with the costs. The notice shall describe methods of treating and eradicating the noxious weeds and a summary of the provisions of this ordinance.

Section 8. Effective Date.

This Ordinance shall take effect 30 days after publication.

At a regular meeting of the Board of Trustees of Elba Township held on November 9th, 2009, adoption of the foregoing ordinance was moved by JOHNSON and supported by STOCK.

Voting for: BOSKEE, SUTER, JOHNSON, WILCOX, CONNELL, STOCK AND NELSON

Voting against: 0

The supervisor declared the ordinance adopted.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 57 which was enacted by the Elba Township Board of Trustees at a regular meeting held on November 9th, 2009.


BRENDA M. [unclear]
ELBA TOWNSHIP CLERK

ELBA TOWNSHIP

ORDINANCE NO. 58

An ordinance to regulate wind energy turbines in the Township.

THE TOWNSHIP OF ELBA ORDAINS:

Section 1. Purpose and Intent.

- A. The purpose of this Ordinance is to establish guidelines for siting Wind Energy Turbines (WET). The goals are as follows:
 - 1. Preserve and protect public health, safety, welfare and quality of life by minimizing the potential adverse impacts of a WET.
 - 2. To establish standards and procedures by which the siting, design, engineering, installation, operation and maintenance of a WET shall be governed.

Section 2. Definitions.

- A. **Ambient Sound Level.** The amount of background noise at a given location prior to the installation of a WET, which may include, but not be limited to, traffic, machinery, lawnmowers, human activity and the interaction of wind with the landscape. The ambient sound level is measured on the dB(A) weighted scale as defined by the American National Standards Institute.
- B. **Anemometer.** A temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- C. **Condominium Development.** Defined as a development that is created under the Condominium Act.
- D. **Condominium General Common Element.** Defined as an area designated for use by all owners within a Condominium Development.
- E. **Decibel.** Defined as a unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dB(A) weighted scale as defined by the American National Standards Institute.
- F. **Decommissioning.** The process of terminating operation and completely

- removing a WET and all related buildings, structures, foundations, access roads and equipment.
- G. **Fall zone.** The potential fall area for a WET is measured by using 110% of the total height as the radius around the center point of the tower base.
- H. **Nacelle.** The encasement which houses all of the generating components, gear box, drive train and other equipment of a WET.
- I. **Net-Metering.** A special metering and billing agreement between utility companies and their customers, which facilitates the connection of renewable energy generating systems to the power grid.
- J. **Operator.** The entity responsible for the day-to-day operation and maintenance of a WET.
- K. **Owner.** The individual or entity, including their respective successors and assigns, that have an equity interest or own the WET in accordance with this ordinance.
- L. **Plot.** A parcel of land.
- M. **Rotor Diameter.** The cross-sectional dimension of the circle swept by the rotating blades of a WET.
- N. **Shadow Flicker.** The moving shadow, created by the sun shining through the rotating blades of a WET. The amount of shadow flicker created by a WET is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activity and sunlight.
- O. **Structure.** Anything constructed or erected on the ground or attached to the ground, including, but without limitation to, buildings, factories and sheds.
- P. **Structure Mounted Wind Energy Turbine – Class 1.** A WET that converts wind energy into electricity and is attached to a structure's roof, walls or other elevated surface.
- Q. **Total Maximum Height.** The vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of any blade or the maximum height reached by any part of the WET.
- R. **Tower.** A freestanding monopole, web or lattice-type tower.
- S. **Tower Mounted Wind Energy Turbine – Classes 2, 3, 4 and 5.** A WET that converts wind energy into electricity and is mounted on a freestanding monopole.
- T. **Upwind Turbine.** A WET positioned in a manner so that the wind hits the turbine blades before it hits the tower in order to avoid the thumping noise

which can occur if the wind is disrupted by hitting the tower before the blades.

- U. **Utility Grid Wind Energy System.** A WET designed and constructed to provide electricity to the electric grid.
- V. **Wind Energy Turbine.** WET is any structure-mounted or tower-mounted wind energy conversion system that converts wind energy into electricity.

Section 3. Applicability.

- A. This Ordinance applies to all WETs proposed to be constructed after the effective date of this Ordinance.
- B. All WETs constructed prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; however, any physical modification to an existing WET that materially alters the size, type, equipment or location shall require a permit under this Ordinance.

Section 4. Temporary Uses.

- A. Anemometers are permitted in all zoning districts where a WET is allowed as a temporary use only, subject to the following:
 - 1. The construction, installation or modification of an anemometer tower shall require a building permit and shall conform to all applicable local, state, and federal safety, construction, environmental, electrical, communications and FAA requirements.
 - 2. An anemometer shall be subject to all the requirements for height, setback, separation, location, safety requirements and decommissioning that correspond to the size of the WET that is proposed to be constructed on the site.
 - 3. An anemometer shall be permitted for no more than thirteen (13) months.

Section 5. Permitted Uses.

- A. A Class 1 Structure-Mounted WET which generates 10 KW or less and which has a maximum total height of 55 feet shall be a permitted use in the RA, R1, R2, C1, C2, C3 and I zoning districts, provided:
 - 1. The total height does not exceed the Maximum Building Height as specified in Section 18.01 of the Township Zoning Ordinance.
 - 2. Valid building, electrical and other permits relating to its construction are obtained.
 - 3. The owner/applicant submits a scaled drawing showing all structures, roads, communication lines and power lines

prior to it being erected, constructed, installed or modified as provided in this Ordinance.

B. A Class 2 Tower-Mounted WET which generates 10 KW or less and which has a maximum total height of 55 feet shall be a permitted use in the RA, R1, R2, C1, C2, C3 and I zoning districts, provided:

1. The total height does not exceed the Maximum Building Height as specified in Section 18.01 of the Township Zoning Ordinance.

2. Valid building, electrical and other permits relating to its construction are obtained.

3. The owner/applicant submits a scaled drawing showing all structures, roads, communication lines and power lines prior to it being erected, constructed, installed or modified as provided in this Ordinance.

C. A Class 3 Tower-Mounted WET which generates 10-20 KW or less and which has a maximum total height of 80 feet shall be permitted, after special land use approval, in the RA, C1, C2, C3 and I zoning districts, provided:

1. Valid building, electrical and other permits relating to its construction are obtained.

2. The owner/applicant submits an engineered site plan to the Township Planning Commission for site plan review.

3. Class 3 WETs may be connected to the Utility Grid after power company approval.

D. A Class 4 Tower-Mounted WET which generates 20-100 KW or less and which has a maximum total height of 120 feet shall be permitted, after special land use approval, in the RA, C3 and I zoning districts, provided:

1. Valid building, electrical and other permits relating to its construction are obtained.

2. The owner/applicant submits an engineered site plan to the Township Planning Commission for site plan review.

3. Class 4 WETs may be connected to the Utility Grid after power company approval.

E. A Class 5 Tower-Mounted WET which generates 100-250 KW or less and which has a maximum total height of 150 feet shall be permitted,

after special land use approval, in the RA, C3 and I zoning districts, provided:

1. Valid building, electrical and other permits relating to its construction are obtained.
2. The owner/applicant submits an engineered site plan to the Township Planning Commission for site plan review.
3. Class 5 WETs may be connected to the Utility Grid after power company approval.

Section 6. Siting and Design Requirements.

- A. Only Upwind Turbines are permitted.
- B. The design of a WET shall conform to all applicable industry standards.
- C. Class 2, Class 3, Class 4 and Class 5 WETs shall be mounted on a freestanding monopole tower of a non-reflective, non-obtrusive color (e.g. white, gray or black). Accessory buildings and all related structures shall be the same color. The appearance of turbines, towers and buildings shall be maintained throughout the life of the WET.
- D. A WET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority for reasonable safety and security thereof.
- E. A WET shall not be used for displaying any advertising except for identification of the turbine manufacturer or operator(s).
- F. A WET shall not produce vibrations humanly perceptible beyond the property on which it is located.
- G. A WET owner(s) and/or operator(s) shall conduct an analysis on potential shadow flicker at any existing building within direct line-of-sight to the WET, at the time the project is constructed. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations, from sun-rise to sun-set, over the course of a year. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than 30 hours per year and describe measures that shall be taken to eliminate or mitigate the problem. Shadow Flicker on a building shall not exceed thirty (30) hours per year.
- H. Web type towers, lattice-type towers or guy wires shall not be permitted as part of a WET.
- I. All electrical controls, control wiring, grounding wires, power lines and all other electrical system components of the WET shall be placed within the

boundary of each parcel designed to accommodate the existing land use to the maximum extent practicable.

- J. The WET shall only be located in a General Common Element in any condominium development.
- K. The lowest extension of any blade or other exposed moving component of a WET shall be at least twenty-five (25) feet above the ground (at the highest point of the grade level within fifty [50] feet of the base of the tower) and, in addition, at least twenty-five (25) feet above any outdoor surfaces intended for human occupancy.
- L. WET system noise level shall not exceed 60 decibels, as measured from the closest lot line. This level may be exceeded during short-term events, such as severe wind storms.
- M. If multiple Class 3, Class 4 and/or Class 5 WETs are located on a parcel, no more than one (1) WET shall be installed for every two and one half (2.5) acres of land on said parcel, providing that all other conditions and restrictions are met.
- N. The setback from all buildings, public road right of ways, communication lines and electrical lines and drain right of way, on the applicant's parcel, shall be a minimum of 110% of the WET's total height measured from the base of the tower.
- O. WET tower separation shall be based on industry standard and manufacturer recommendation.
- P. Class 3, Class 4 and/or Class 5 WETs shall be accessible by roads built to the specifications of the Township's Private Road Ordinance.
- Q. Class 1 and Class 2 WETs that exceed the building height in the proposed location zoning district, and all Class 3, Class 4 and Class 5 WETs, shall require special land use approval prior to permit application.

Section 7. Permit Application Requirements.

- A. A person, firm or corporation wishing to install a WET shall submit a permit application to the Township which includes the following information:
 - 1. Name of property owner(s), address, parcel number and legal description.
 - 2. The proposed type and height of the WET to be constructed; including the manufacturer's name and model, product specifications including maximum noise output, measured in

decibels, total rated generating capacity, rotor diameter, maximum overall height and a description of ancillary facilities.

3. Drawings shall show the proposed location of all components and ancillary equipment of the WET, property lines, physical dimensions of the property, existing building(s), setback lines, right-of-way lines, public easements, overhead utility lines, sidewalks, non-motorized pathways and roads.

4. Documented compliance with the noise requirements set forth in this Ordinance.

5. Documented compliance with applicable local, state and national regulations and standards including, but not limited to, all applicable safety, construction, environmental, electrical, communications and FAA requirements.

6. Proof of applicant's liability insurance.

7. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved.
Off-grid systems shall be exempt from this requirement.

8. Proposed number of WETs.

9. Description of the methods that will be used to perform maintenance and the procedures for lowering or removing the WET in order to conduct maintenance.

10. Grounding details specified at time of application.

11. Signature of the Applicant.

Section 8. Safety Requirements.

A. If the WET is connected to a public utility system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then current service regulations applicable to wind power generation facilities and the connection shall be inspected by the appropriate public authority.

B. The WET shall be equipped with an automatic braking or governing system to prevent uncontrolled rotation, over-speeding and excessive pressure on the tower structure, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.

C. Security measures need to be in place to prevent unauthorized trespass and access. Each WET shall not be climbable for the first (15)

fifteen feet above ground level. All access doors to WETs and electrical equipment shall be locked and/or fenced as appropriate, to prevent entry by non-authorized person(s).

D. All spent lubricants, cooling fluids and any other hazardous materials shall be properly and safely removed in a timely manner.

E. Each WET shall have one sign, not to exceed (2) two feet by (3) three feet, posted at the base of the tower or on the security fence. The sign shall contain at least the following: "**WARNING HIGH VOLTAGE,**" and the name of the manufacturer and owner/operator and at least one emergency contact phone number.

F. The structural integrity of the WET shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1 "Wind Turbine Safety and Design," IEC 61400-22 "Wind Turbine Certification" and IEC 61400-23 "Blade Structural Testing" or any similar successor standards.

G. All WETS shall have lightning protection.

Section 9. Signal Interference.

A. A WET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite or emergency communication systems.

Section 10. Decommissioning.

A. Decommissioning shall include the complete removal of each WET, buildings, foundations and all electrical components as well as any other associated facilities.

B. Class 1, Structure mounted WETs and Class 2, Tower mounted WETs, constructed in RA, R1 or R2 zoning districts shall be exempt from this section.

C. An independent and certified professional engineer shall be retained to estimate the total cost of decommissioning. The Township shall also require an annual escalator or increase based on the Federal Consumer Price Index or equivalent. Said estimates shall be submitted to the Township after the first year of operation and every fifth year thereafter.

D. WET Owner(s) or Operator(s) shall post and maintain funds equal to the estimated decommissioning costs with the Township.

E. The Township shall release the decommissioning funds to the Owner when the Owner(s) has demonstrated that decommissioning has been satisfactorily completed.

F. The WET Owner(s) or Operator(s) shall complete decommissioning within twelve (12) months after the end of the useful life. A "useful life" shall be defined as the time when no electricity is generated for a period of twelve (12) consecutive months.

G. Access roads to the WET shall be removed, cleared and graded by the WET Owner(s), unless the property owner(s) requests, in writing, a desire to maintain the access road.

H. The site and any disturbed earth shall be stabilized, graded and cleared of any debris by the owner(s) of the WET or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion.

I. If neither the Owner(s) or Operator(s), nor the landowner(s), completes decommissioning as specified herein, the Township may apply the decommissioning funds deposited with it towards completion of decommissioning.

Section 11. Certification and Compliance.

- A. The Township must be notified within thirty (30) days of a change in ownership of a WET or a change in ownership of the property on which the WET is located.
- B. The Township reserves the right to inspect any WET in order to ensure compliance with the Ordinance. Any cost associated with the inspections shall be paid by the owner/operator of the WET.
- C. Proof of compliance with the noise standards is required within ninety (90) days of the date the WET becomes operational. Sound pressure level shall be measured by a third-party, qualified professional.
- D. A sound pressure level analysis may be conducted from a reasonable number of sampled locations at the perimeter and in the interior of the property containing any WETs to demonstrate compliance with the requirements of this Ordinance.
- E. A WET Owner(s) or Operator(s) shall provide the Township with a copy of the annual inspection report and yearly maintenance report no later than January 2 of each year.

Section 12. Public Inquiries and Complaints.

- A. Should an aggrieved property owner allege that the WET is not in compliance with the noise or shadow flicker requirements of this Ordinance, the aggrieved party shall notify the Township, in writing,

regarding concerns about noise level or shadow flicker.

B. If the noise complaint is deemed sufficient by the Township to warrant an investigation, the Township will request the aggrieved property owner to deposit funds in an amount sufficient to pay for a noise test, conducted by a third-party qualified professional, to determine compliance with the requirements of this Ordinance. If the test indicates that the noise level is within Ordinance requirements, the Township will use the deposit to pay for the test. If the WET is in violation of the Ordinance noise requirements, the Township will (1) refund the deposit to the aggrieved property owner; and (2) require that the Owner(s) reimburse the Township for the noise level test and take immediate action to bring the WET into compliance with this Ordinance, which may include ceasing operation of the WET until the Ordinance violations are corrected.

C. If the shadow flicker complaint is deemed sufficient by the Township to warrant an investigation, the Township will request the aggrieved property owner to deposit funds in an amount sufficient to pay for a shadow flicker test, conducted by a third-party qualified professional, to determine compliance with the requirements of this Ordinance. If the test indicates that the shadow flicker level is within the Ordinance requirements, the Township will use the deposit to pay for the test. If the WET is in violation of the Ordinance shadow flicker requirements, the Township shall (1) refund the deposit to the aggrieved property owner; and (2) require that the Owner(s) reimburse the Township for the shadow flicker test and take immediate action to bring the WET into compliance with this Ordinance, which may include ceasing operation of the WET until the Ordinance violations are corrected.

Section 13. Applicability of Other Ordinances.

- A. Any WET must comply with applicable provisions of the Township Zoning Ordinance.

Section 14. Enforcement and Penalties

A. Any violation of this ordinance is designated as a municipal civil infraction and violators shall be subject to the civil fines, sanctions, remedies and procedures as set forth in Ordinance No. 48, the Township Municipal Civil Infraction Ordinance.

B. A violation of this ordinance shall also be deemed a public nuisance and the Township is hereby authorized to enter into and upon that person's land to abate the nuisance and to assess against the property all costs

and expenses it incurs abating the nuisance.

Section 15. Effective Date.

This Ordinance shall take effect 30 days after publication.

At a regular meeting of the Board of Trustees of Elba Township held on February 24th, 2010, adoption of the foregoing ordinance was moved by Nelson and supported by Connell.

Voting for: 7

Voting against: 0

The supervisor Michael Boskee declared the ordinance adopted.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 58 which was enacted by the Elba Township Board of Trustees at a regular meeting held on February 24th, 2010.


ELBA TOWNSHIP CLERK

Elba Township Ordinance #59

MEDICAL MARIHUANA DISPENSARY ORDINANCE

Section 1: Findings

- A. In 2008, the voters in the State of Michigan approved a referendum authorizing the medical use of marihuana for certain limited medical conditions.
- B. The intent of the referendum was to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess cultivate/grow, use, and distribute marihuana for medical purposes and to assist specifically registered Qualifying Patients identified in the statute without fear or criminal prosecution under limited, specific circumstances.
- C. Despite the specifics of the medical marihuana legislation, marihuana is still a controlled substance. Federal law prohibits marihuana use, possession, and distribution and it is a Schedule 1 drug, along with LSD and heroin. It has a potential for abuse that should be closely monitored to avoid activities that can cause a public nuisance and other conditions detrimental to the health, safety and welfare of the residents of the Township of Elba.

Section 2: Intent

It is the intent of this Ordinance to regulate dispensaries for the use of medical marihuana to the extent permissible, to protect the health, safety and welfare of the residents of the Township of Elba. It is not the intent of this Ordinance to violate any rights protected by the Constitution of either the State of Michigan or the United States of America. The Township of Elba wants nothing in this Ordinance to be construed to allow persons to engage in conduct of marihuana use for non-medical purposes or to allow activity relating to cultivating, storing, possessing, distributing or consuming marihuana that is otherwise illegal.

Section 3: Definitions

For purposes of this Ordinance, the words and phrases as contained shall have the meanings as defined in the Michigan Medical Marihuana Act (MCLA 333.26423) and the regulations put forth by the State of Michigan, Department of Community Health.

Section 4: Dispensaries and Growing Facilities for Medical Marihuana in Industrial District

- A. A medical marihuana dispensary in Elba Township is defined as a facility that allows only one (1) Primary Caregiver serving not more than five (5) Qualified Patients.
- B. Medical marihuana dispensaries shall be allowed only in industrial zoned districts, classified as "uses permitted after special approval", Section 14.02.M in Zoning Ordinance 200.
- C. The Primary Caregiver shall own, but not lease or rent, the medical marihuana dispensary.
- D. A medical marihuana dispensary shall not be located within 1000 feet of the following:
 1. Public or private school property
 2. Day care centers

3. Libraries

- E. All medical marihuana shall be contained within in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered Primary Caregiver.
- F. Set hours of operation are not to exceed 8:00 a.m. to 8:00 p.m. Monday through Saturday.
- G. No one under the age of 18 shall be permitted on the premises unless they posses a valid medical marihuana registry card issued by the State of Michigan, and are accompanied by a parent or legal guardian.
- H. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting, ventilation, and/or watering devices that support production of marihuana are located and are subject to annual inspection and approval by the Building Inspector. Inspection approval shall be visibly posted in the building.
- I. Dispensaries with marihuana grow rooms and/or storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to annual inspection and approval by the Elba Township Fire Department.
- J. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.

Section 5: Application Requirements to Operate

A person who has been issued and possesses a registration identification card as a "Primary Caregiver " as set forth in MCL 333.26421 shall apply for a special use permit following the procedure in Article XX in Zoning Ordinance 200.

Section 6: Prohibited Conduct in Industrial District

- A. Marihuana cannot be smoked or consumed in any way at a dispensary or growing facility operated by a Primary Caregiver. The function of a marihuana dispensary is to grow and/or dispense marihuana to Qualifying Patients.
- B. No Primary Caregiver or Qualifying Patient shall possess marihuana or marihuana plants in excess of the amount he or she is allowed to posses under MCL 333.26424(b).
- C. Primary Caregivers shall not share growing areas with other Caregivers. Primary Caregivers may not allow access to their medical marihuana growing room to any other Caregiver, Qualifying Patients, non-caregivers or non-patients, or to any other person other than law enforcement, or inspection by the Building Inspector or inspection by the Elba Township Fire Department.
- D. The following entities are expressly prohibited from receiving compensation for costs associated with assisting a registered Qualifying Patient in the medical use of marihuana: corporations, limited liability companies, and partnerships.
- E. It shall be a violation of the Ordinance for a Primary Caregiver to delegate to an employee or other person not independently authorized by the Michigan Medical Marihuana Act the authorization or permission to provide assistance with the medical use of marihuana to a Qualifying Patient.
- F. Dispensary drive-through facilities are prohibited.
- G. Medical marihuana dispensaries may not provide retail sale of marihuana growing and/or processing apparatus, or any other non-marihuana related commodities.
- H. The sale, distribution, cultivation and possession of marihuana or marihuana plants is prohibited to the extent it is in violation of the Michigan Medical Marihuana Act.

Section 7: Civil Forfeiture

Any marihuana, or marihuana paraphernalia, possessed with the intent to sell, or manufacture with the intent to sell, in violation of this Ordinance, or in violation of the Michigan Medical Marihuana Act, shall be seized and forfeited and disposed of by the police agencies serving the Township of Elba.

Section 8: Severability

Sections of this 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.

Section 9: Penalty

Any person who violates a provision of this Ordinance shall be guilty of a misdemeanor punishable by fines not to exceed five hundred dollars (\$500.00), plus Court costs and costs of prosecution or imprisonment for not more that ninety (90) days, or both, at the discretion of the Court. The Township may institute an action for injunction, mandamus, abatement or any other appropriate action or actions, proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance provided by this Ordinance and the person or entity violating the Ordinance shall be responsible to pay for the attorney fees, expert fees, and other costs and expenses incurred by the Township in such enforcement action. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by this Ordinance.

EFFECTIVE DATE:

This Ordinance shall become effective 30 days after adoption by the Elba Township General Board.

At a special meeting of the Board of Trustees of Elba Township held on May 18, 2011, adoption of the foregoing ordinance was moved by Nelson and supported by Wilcox. Voting for: 6, Voting against: 0

The supervisor Michael Boskee declared the ordinance adopted.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 59 which was enacted by the Elba Township Board of Trustees at a special meeting held on May 18, 2011.


ELBA TOWNSHIP CLERK

